

*In the opinion of Barnes & Thornburg, LLP, South Bend, Indiana (“Bond Counsel”), under existing law, interest on the Series 2005A Bonds is excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended. This opinion is based on certain certifications, covenants and representations of the Authority and the Borrowers and is conditioned on continuing compliance therewith. In the opinion of Bond Counsel, under existing law, interest on the Senior Bonds is exempt from income taxation in the State of Indiana. See “TAX MATTERS” herein.*

**\$13,855,000**

**INDIANA HEALTH AND EDUCATIONAL FACILITY FINANCING AUTHORITY**

**\$11,120,000 Tax-Exempt Senior Health Care Revenue Bonds, Series 2005A**

**\$2,735,000 Taxable Senior Health Care Revenue Bonds, Series 2005B**

**(American Eagle LifeCare Project)**

**Dated:** Date of Issuance

**Due:** As shown below

The Indiana Health and Educational Facility Financing Authority (the “Authority”) is issuing its \$11,120,000 Tax-Exempt Senior Health Care Revenue Bonds, Series 2005A (American Eagle LifeCare Project) (the “Series 2005A Bonds”) and its \$2,735,000 Taxable Senior Health Care Revenue Bonds, Series 2005B (American Eagle LifeCare Project) (the “Series 2005B Bonds” and, together with the Series 2005A Bonds, the “Senior Bonds”). The Senior Bonds will be issuable in fully registered form without coupons in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. The Series 2005A Bonds will bear interest at a variable rate per annum equal to federal funds target rate as announced by the Federal Open Market Committee and published in *The Wall Street Journal* plus 3.25%. The Series 2005B Bonds will bear interest at the fixed rate of interest set forth below. Interest on the Series 2005A Bonds will be payable monthly on the first day of each month, commencing January 1, 2006, and interest on the Series 2005B Bonds will be payable semiannually on each January 1 and July 1, commencing July 1, 2006. The Senior Bonds, when issued, will be registered in the name of Cede & Co., as nominee for The Depository Trust Company (“DTC”), New York, New York. Purchases of the Senior Bonds will be made in book-entry form only. Purchasers of the Senior Bonds will not receive physical delivery of bond certificates. So long as Cede & Co. is the registered owner of the Senior Bonds, as nominee of DTC, interest, together with the principal of and redemption premium, if any, on the Senior Bonds will be paid directly to DTC by the Trustee (defined below). See “THE SENIOR BONDS – General” and “Book-Entry-Only System.”

The Senior Bonds will be issued and secured under a Trust Indenture dated as of October 1, 2005 (the “Indenture”), between the Authority and Wells Fargo Bank, National Association, Fort Wayne, Indiana, as trustee (the “Trustee”). The proceeds of the Senior Bonds will be loaned by the Authority to American Eagle Home Place, LLC, American Eagle Morning Breeze, LLC and American Eagle Sanders Glen, LLC (collectively, the “Borrowers”), pursuant to a Loan Agreement dated as of October 1, 2005 (the “Loan Agreement”) among the Authority, the Borrowers and American Eagle LifeCare Corporation. The Borrowers are limited liability companies whose sole member is American Eagle LifeCare Corporation, a Tennessee nonprofit corporation which is not obligated with respect to the Series 2005 Bonds other than to comply with certain tax covenants, including to maintain its nonprofit status and its existence as a 501(c)(3) organization. Pursuant to the Loan Agreement, the proceeds of the Authority loan will be used by the Borrowers to acquire three senior housing and/or healthcare facilities located in Indianapolis, Westfield and Greensburg, Indiana (the “Facilities”). In addition, proceeds of the Senior Bonds will be used to fund certain repairs and equipment replacements for the Facilities, and to pay a portion of the costs of issuing the Senior Bonds. The Senior Bonds are special and limited obligations of the Authority payable solely from revenues and funds pledged under the Indenture (except the Rebate Fund), from amounts payable by the Borrowers pursuant to the Loan Agreement and from amounts recoverable upon the exercise of remedies under the Mortgages (as defined herein). Concurrently with the issuance of the Senior Bonds, the Authority will issue its \$3,195,000 Tax-Exempt Subordinate Health Care Revenue Bonds, Series 2005C (American Eagle LifeCare Project) (the “Subordinate Bonds” and, together with the Senior Bonds, the “Series 2005 Bonds”) under the Indenture, which will be delivered to the seller of the Facilities in payment of a portion of the purchase price of the Facilities. The Borrowers will agree under the Loan Agreement to make payments sufficient to pay debt service on the Subordinate Bonds; however, payment of the Subordinate Bonds is subordinate in terms of payment and security to the Senior Bonds.

**THE SENIOR BONDS ARE SUBJECT TO OPTIONAL REDEMPTION, EXTRAORDINARY REDEMPTION, AND MANDATORY SINKING FUND REDEMPTION AS DESCRIBED HEREIN. SEE “THE SENIOR BONDS – REDEMPTION PROVISIONS” HEREIN.**

**INVESTMENT IN THE SENIOR BONDS INVOLVES A HIGH DEGREE OF RISK AND EACH PROSPECTIVE INVESTOR SHOULD CONSIDER ITS FINANCIAL CONDITION AND THE RISKS INVOLVED TO DETERMINE THE SUITABILITY OF INVESTING IN THE SENIOR BONDS. THERE IS NO PUBLIC MARKET FOR THE SENIOR BONDS AND NO RATINGS HAVE BEEN REQUESTED FOR THE SENIOR BONDS. PROSPECTIVE PURCHASERS OF THE SENIOR BONDS SHOULD READ AND CONSIDER THE SECTION ENTITLED “BONDHOLDERS’ RISKS” HEREIN.**

The Series 2005 Bonds are special and limited obligations of the Authority and will be payable solely from and secured exclusively by payments, revenues and amounts pledged under the Indenture. The Series 2005 Bonds do not represent or constitute a debt of the Authority or the State of Indiana (the “State”) within the meaning of the provisions of the constitution and statutes of the State or a pledge of the faith and credit of the Authority or the State and the Series 2005 Bonds do not grant to the owners or holders thereof any right to have the Authority or the State levy any taxes or appropriate funds for the payment of the principal thereof or interest thereon. The Authority has no taxing power.

**MATURITY SCHEDULE**

\$11,120,000 Variable Rate Series 2005A Term Bonds due January 1, 2036, Priced @ 100%  
\$2,735,000 9.25% Series 2005B Term Bonds due January 1, 2036, Priced @ 100%

This cover page contains certain information for quick reference only. It is not a summary of this issue. Investors must read the entire Official Statement, including the Appendices hereto, to obtain information essential to making an informed investment decision.

*The Senior Bonds are offered when, as and if issued and received by the Underwriter, subject to prior sale, to withdrawal or modification of the offer without any notice, and to the approval of legality of the Senior Bonds by Barnes & Thornburg LLP, South Bend, Indiana, Bond Counsel. Certain legal matters will be passed upon for the Authority by the Attorney General of the State of Indiana, Indianapolis, Indiana, for the Borrowers by their counsel, Boulton Cummings Connors & Berry PLC, and by their special local counsel, Hall, Render, Killian, Heath & Lyman, PSC, Indianapolis, Indiana, and for the Underwriter, by its counsel, DLA Piper Rudnick Gray Cary, LLP, New York, New York. It is expected that the Senior Bonds in definitive form will be available for delivery to The Depository Trust Company, New York, New York, on or about December 2, 2005.*

**THE GMS GROUP, L.L.C.**

Dated: December 2, 2005

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**IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER-ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SENIOR BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.**

No dealer, broker, salesman or other person has been authorized by the Authority, the Borrowers or the Underwriter to give any information or to make any representation other than as contained in this Official Statement, and if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Senior Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The information set forth herein has been obtained from the Borrowers, American Eagle LifeCare Corporation, the Seller, the Manager and other sources that are deemed to be reliable, but is not guaranteed as to accuracy or completeness by the Underwriter, and is not to be construed as a representation either by the Underwriter, or as to information from sources other than the Authority, by the Authority.

All quotations from and summaries and explanations of provisions of laws and documents herein do not purport to be complete and reference is made to such laws and documents for full and complete statements of their provisions. Summaries of the principal legal documents are presented in APPENDIX E hereto. These summaries do not purport to be complete or to cover all sections of the principal legal documents. Copies of the principal legal documents are on file with the Trustee. Any statements made in this Official Statement involving estimates or matters of opinion, whether or not expressly so stated, are intended merely as estimates or opinions and not as representations of fact. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale of the Senior Bonds shall under any circumstances create any implication that there has been no change in the affairs of the Authority or the Borrowers since the date hereof or the date as of which specified information is given, if earlier.

This Official Statement contains forecasts, projections and estimates that are based on current expectations. In light of the important factors that may materially affect the financial condition of the Borrowers or the operations of the Facilities and other economic and financial matters, the inclusion in this Official Statement of such forecasts, projections and estimates should not be regarded as representations by the Authority or the Underwriter that such forecasts, projections and estimates will occur. Such forecasts, projections and estimates are not intended as representations of fact or guarantees of result.

**THE ORDER AND PLACEMENT OF MATERIALS IN THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, ARE NOT TO BE DEEMED TO BE A DETERMINATION OF RELEVANCE, MATERIALITY OR IMPORTANCE, AND THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, MUST BE CONSIDERED IN ITS ENTIRETY. THE OFFERING OF THE SENIOR BONDS IS MADE ONLY BY MEANS OF THIS ENTIRE OFFICIAL STATEMENT.**

## TABLE OF CONTENTS

	<u>Page</u>
<b>INTRODUCTION .....</b>	<b>1</b>
<b>PLAN OF FINANCING.....</b>	<b>8</b>
<b>ANNUAL DEBT SERVICE REQUIREMENTS .....</b>	<b>11</b>
<b>THE AUTHORITY .....</b>	<b>11</b>
<b>THE FACILITIES .....</b>	<b>11</b>
<b>THE BORROWERS .....</b>	<b>16</b>
<b>THE MANAGER .....</b>	<b>19</b>
<b>THE APPRAISALS.....</b>	<b>21</b>
<b>FEASIBILITY STUDYAND SENSITIVITY ANALYSIS LETTER .....</b>	<b>21</b>
<b>THE SENIOR BONDS.....</b>	<b>21</b>
<b>SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS.....</b>	<b>28</b>
<b>REGULATION OF THE NURSING HOME INDUSTRY .....</b>	<b>41</b>
<b>BONDHOLDERS' RISKS.....</b>	<b>45</b>
<b>LITIGATION .....</b>	<b>54</b>
<b>LEGAL MATTERS .....</b>	<b>54</b>
<b>TAX MATTERS.....</b>	<b>55</b>
<b>UNDERWRITING .....</b>	<b>56</b>
<b>NO BOND RATINGS .....</b>	<b>56</b>
<b>CONTINUING DISCLOSURE.....</b>	<b>56</b>
<b>MISCELLANEOUS .....</b>	<b>57</b>
APPENDIX A: Annual Debt Service Requirements on the Series 2005B Bonds	
APPENDIX B: Sensitivity Analysis Letter and Feasibility Study	
APPENDIX C: The Facilities	
APPENDIX D: Financial Information for the Facilities	
APPENDIX E: Definitions of Certain Terms and Summaries of Principal Documents	
APPENDIX F: Proposed Form of Bond Counsel Opinion	
APPENDIX G: Proposed Form of Management Agreement	
APPENDIX H: Financial Information for the Manager	

*In making an investment decision, investors must rely on their own examination of the terms of the offering, including the merits and risks involved. These securities have not been recommended by any federal or state securities commission or regulatory authority. Furthermore, the foregoing authorities have not confirmed the accuracy or determined the adequacy of this document. Any representation to the contrary is a criminal offense.*

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## **OFFICIAL STATEMENT**

relating to

**\$13,855,000**

**INDIANA HEALTH AND EDUCATIONAL FACILITY FINANCING AUTHORITY**

**\$11,120,000 Tax-Exempt Senior Health Care Revenue Bonds, Series 2005A**

**\$2,735,000 Taxable Senior Health Care Revenue Bonds, Series 2005B**

**(American Eagle LifeCare Project)**

## **INTRODUCTION**

### **Purpose of the Official Statement**

This Official Statement, including the cover page and Appendices, is furnished in connection with the offering of \$11,120,000 aggregate principal amount of Tax-Exempt Senior Health Care Revenue Bonds, Series 2005A (American Eagle LifeCare Project) (the “Series 2005A Bonds”) and \$2,735,000 aggregate principal amount of Taxable Senior Health Care Revenue Bonds, Series 2005B (American Eagle LifeCare Project) (the “Series 2005B Bonds” and, together with the Series 2005A Bonds, the “Senior Bonds”) of the Indiana Health and Educational Facility Financing Authority (the “Authority”). The Senior Bonds will be issued under a Trust Indenture, dated as of October 1, 2005 (the “Indenture”), between the Authority and Wells Fargo Bank, National Association, Fort Wayne, Indiana, as Trustee (the “Trustee”). The Senior Bonds are being issued pursuant to Indiana Code 5-1-16, as amended (the “Act”).

The proceeds of the Senior Bonds will be loaned by the Authority to American Eagle Home Place, LLC, American Eagle Morning Breeze, LLC and American Eagle Sanders Glen, LLC (collectively, the “Borrowers”), pursuant to a Loan Agreement dated as of October 1, 2005 (the “Loan Agreement”) among the Authority, the Borrowers and American Eagle LifeCare Corporation. Pursuant to the Loan Agreement, the proceeds of the Authority loan will be used by the Borrowers to acquire three senior housing and/or healthcare facilities located in Indianapolis, Westfield and Greensburg, Indiana (the “Facilities”) from Westfield Associates, LLC (the “Seller”). In addition, proceeds of the Senior Bonds will be used to fund certain repairs and equipment replacements for the Facilities and to pay the costs of issuance in connection with the issuance of the Senior Bonds. The Borrowers are limited liability companies whose sole member is American Eagle LifeCare Corporation (“American Eagle”), a Tennessee nonprofit corporation, which will not be obligated with respect to the Series 2005 Bonds other than to comply with certain tax covenants, including to maintain its nonprofit status and its existence as a 501(c)(3) organization. Concurrently with the issuance of the Senior Bonds, the Authority will issue its \$3,195,000 Tax-Exempt Subordinate Health Care Revenue Bonds, Series 2005C (American Eagle LifeCare Project) (the “Subordinate Bonds” or “Series 2005C Bonds” and, together with the Senior Bonds, the “Series 2005 Bonds”) under the Indenture, which will be delivered to the Seller in payment of a portion of the purchase price of the Facilities. The Borrowers will agree under the Loan Agreement to make payments sufficient to pay debt service on the Subordinate Bonds; however, payment of the Subordinate Bonds is subordinate in terms of payment and security to the Senior Bonds. See “PLAN OF FINANCING” herein.

The descriptions and summaries of various documents hereinafter set forth do not purport to be comprehensive or definitive, and reference is made to each document for the complete details of all terms and conditions. All statements herein are qualified in their entirety by reference to each document. See APPENDIX E for definitions of certain words and terms used herein which are not otherwise defined.

## **The Authority**

The Authority is a public body politic and corporate of the State of Indiana. Pursuant to Indiana Code 5-1-16, as amended (the “Act”), and resolutions adopted by the governing body of the Authority, the Authority is authorized to issue the Series 2005 Bonds; to lend the proceeds thereof to the Borrowers in order to finance the acquisition of the Facilities, fund certain repairs and equipment replacements for the Facilities, and pay the costs of issuance of the Senior Bonds; and to secure the Senior Bonds by a pledge and assignment to the Trustee of certain rights (as hereinafter described) under the Loan Agreement. See the caption “PLAN OF FINANCING” herein for a discussion of the scope of the Project.

## **The Borrowers and American Eagle**

Each of the Facilities will be owned by one of the Borrowers, American Eagle Home Place, LLC, American Eagle Morning Breeze, LLC or American Eagle Sanders Glen, LLC. Each of the Borrowers is a recently formed Indiana limited liability company. The principal business of the Borrowers will be the owning and operating the Facilities. The sole member of each of the Borrowers is American Eagle LifeCare Corporation (“American Eagle”), a Tennessee nonprofit corporation formed on May 6, 2002. American Eagle has received a determination letter from the Internal Revenue Service stating that it is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), and is therefore exempt from federal income tax under Section 501(a) of the Code. Prior to the acquisition of the Facilities hereinafter described, the Borrowers will not own any facilities. Neither American Eagle nor any affiliate of American Eagle other than the Borrowers shall have any obligation with respect to the Senior Bonds, the Loan Agreement, the Mortgages (as hereafter defined) or the documents executed and delivered by the Borrowers in connection with the issuance of the Senior Bonds and the acquisition of the Facilities, except that American Eagle will covenant to comply with certain tax covenants, including to maintain its nonprofit status and its existence as a 501(c)(3) organization. See “THE BORROWERS” herein.

The Borrowers expect to pay American Eagle a fixed monthly fee, initially in the amount of \$2,550 (the “Home Office Fee”), for providing certain administrative services to the Borrowers. The Home Office Fee will be paid monthly as part of Operating Expenses (as defined in the Indenture). For a further discussion of the Home Office Fee, see “THE BORROWERS – Home Office Fee” and “SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS – Application of Gross Revenues” herein.

The obligations of the Borrowers under the Loan Agreement will be joint and several general obligations of the Borrowers. The obligations of each Borrower under the related Mortgage (as hereafter defined) will be general obligations of that Borrower. However, the Borrowers will have no assets other than the Facilities and the revenues derived therefrom to make payments pursuant to the Loan Agreement and the Indenture. The Borrowers will covenant under the Loan Agreement that they shall not engage in any business other than the operations of the Facilities and activities associated with such operations. See “THE BORROWERS” herein.

The Borrowers expect to acquire the right to receive title to the Facilities pursuant to a Facility Purchase Agreement (the “Purchase Agreement”) between the Borrowers and the Seller. The purchase price for the Facilities under the Purchase Agreement will be \$15,990,409, which will be comprised of a cash payment to the Seller of \$12,795,409 and the delivery to the Seller of the \$3,195,000 aggregate principal amount of the Subordinate Bonds. At or prior to the date of delivery of the Series 2005 Bonds, title to the Facilities will be held by the Seller, which will transfer the Facilities to the Borrowers simultaneously with the issuance of the Series 2005 Bonds, pursuant to the Loan Agreement and the Purchase Agreement. The Borrowers are not acquiring any cash or accounts receivable in connection with its purchase of the Facilities. Working capital will be provided to the Borrowers by the Manager pursuant to a Line of Credit (as defined herein). See “THE FACILITIES – Working Capital” for a further description of the Line of Credit.

## **The Facilities**

The Facilities consist of the following three facilities: (i) The Home Place, a 60-unit senior adult independent living facility located at 6612-6745 Millside Drive, Indianapolis, Marion County, Indiana (“The Home Place”), which will be acquired by American Eagle Home Place, LLC; (ii) Sanders Glen, a 111-unit rental retirement community located at 334 South Cherry Street, Westfield, Hamilton County, Indiana (“Sanders Glen”), which will be acquired by American Eagle Sanders Glen, LLC; and (iii) Morning Breeze Retirement Community & Healthcare Center, which is located in 950 North Lakeview Drive, Greensburg, Decatur County, Indiana, and is comprised of one building containing 44 licensed comprehensive care nursing beds and 31 licensed residential care beds contained in 27 units and five buildings containing 18 independent living units (“Morning Breeze”), which will be acquired by American Eagle Morning Breeze, LLC. See APPENDIX C – “The Facilities” for additional information about the Facilities, including certain historical and operating information with respect to the Facilities. APPENDIX C has been prepared by the Seller and the Manager. See APPENDIX D – “Financial Information for the Facilities” for the unaudited financial statements for the Seller and the Facilities for the years ended December 31, 2002, 2003 and 2004 and the ten months ended October 31, 2005; provided, however, such unaudited financial statements do not include Morning Breeze for 2002 or 2003 prior to August 2003 because Morning Breeze was not acquired by the Seller and managed by the Manager until August 2003.

## **Purposes of the Bonds**

The proceeds of the Senior Bonds will be applied by the Authority for the purpose of undertaking a project (the “Project”) consisting of (a) acquisition of the Facilities by the Borrowers from the Seller pursuant to the Purchase Agreement; (b) funding the Capital Additions Fund to provide for certain repairs and equipment replacements at the Facilities; and (c) payment of the expenses incurred in connection with the issuance of the Senior Bonds.

## **Management of the Facilities**

The Borrowers will enter one or more management services agreements for the Facilities, (the “Management Agreement”) with Medical Rehabilitation Centers Inc., (the “Manager”). The Manager is currently managing the Facilities and Manager and the Seller are affiliated through partially common ownership. The Manager will be charged with the responsibilities of assisting in the administration, marketing and management of the Facilities. The Management Agreement is for an initial term of fifteen (15) years, commencing upon the issuance of the Senior Bonds and is subject to termination in certain circumstances. The Borrowers may retain a new Manager of the Facilities, amend the Management Agreement, or renew or extend the term of the Management Agreement in accordance with the terms of the Loan Agreement and the termination provisions of the Management Agreement. The Manager shall provide the Borrowers with executive directors, bookkeepers and program directors for each of the buildings, a director of nursing for Morning Breeze and the services of dietary, quality assurance, marketing and MIS consultants, acceptable to the Borrowers, who may be employees of the Manager. The payroll costs of any employees or consultants of the three Facilities who are employees of the Manager shall be operational expenses of the Facilities to be reimbursed to the Manager. All other staff and personnel working at a particular Facility will be employees of the Borrower which owns that Facility. The Management Fee will be a fixed amount, subject to change annually on the anniversary of the Management Agreement based upon the change in the Consumer Price Index for the last month of the most recently ended fiscal year compared to the last month of the preceding fiscal year (the “Management Fee”). Seventy percent (70 %) of the Management Fee will be paid as an Operating Expense and thirty percent (30%) will be subordinated to principal and interest payments on the Senior Bonds, Operating Expenses, deposits to the Replacement Reserve Fund and certain other deposits (the “Subordinate Management Fee”). Unpaid Management Fees, including unpaid Subordinate Management Fees, will accrue and bear interest at the prime rate as published in *The Wall Street Journal*, which interest will be payable as part of Operating Expenses. See “SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS – Application of Gross Revenues” herein. For a discussion of the Management Agreement and the Management Fee, see “THE MANAGER – Management Agreement” herein. See APPENDIX G – “Proposed Form of Management Agreement” for further information about the Management Agreement.

Certain information with respect to the Manager is included herein, including unaudited financial statements for the Manager for the years ended December 31, 2002, 2003 and 2004 and the ten months ended

October 31, 2005 in APPENDIX H hereto, but solely for the purpose of enabling prospective purchasers of the Senior Bonds to evaluate the ability of the Manager to provide management services under the Management Agreement and to make advances under the Line of Credit, as hereinafter described. Such information should not be construed or relied upon in any manner as an indication of the creditworthiness of the Borrowers or the Facilities. Neither the Series 2005 Bonds nor the interest thereon nor any of the Borrowers' obligations to make payments or perform any covenants under the Loan Agreement constitute a debt or a pledge of the credit of the Manager.

### **The Senior Bonds**

The Senior Bonds are special and limited obligations of the Authority payable solely from revenues and funds pledged under the Indenture (except the Rebate Fund), from amounts payable by the Borrowers pursuant to the Loan Agreement and from amounts recoverable upon the exercise of remedies under the Mortgages (as hereafter defined). The Senior Bonds will bear interest as hereinafter described and will mature by their terms as set forth on the cover page hereof. The Senior Bonds are subject to extraordinary redemption, in whole or in part, from property or title insurance proceeds, proceeds of damage or condemnation of the Facilities or excess capital improvement proceeds, and optional redemption and mandatory sinking fund redemption. See "THE SENIOR BONDS – Redemption Provisions" herein. The Senior Bonds are subject to acceleration following the occurrence of an Event of Default under the Indenture, including in the event of a Determination of Taxability. See "THE SENIOR BONDS – Acceleration" herein.

### **Variable Interest Rate on the Series 2005A Bonds**

The Series 2005A Bonds will bear interest at a variable rate per annum equal to the federal funds target rate as announced by the Federal Open Market Committee of the Federal Reserve Board and published in the Money Rates Section of *The Wall Street Journal* from time to time (the "Federal Funds Rate") plus three and twenty-five hundredths percent (3.25%) (the "Applicable Interest Rate"). The interest will be payable on the Series 2005A Bonds on the first day of each month, commencing January 1, 2006. The holders of the Series 2005A Bonds will not have any right to put the Series 2005A Bonds for purchase or redemption in connection with the resetting of the interest rate on the Series 2005A Bonds.

### **Fixed Interest Rate on the Series 2005B Bonds**

The Series 2005B Bonds will bear interest at the fixed rate per annum set forth on the cover page hereof.

### **Interest Rate Cap**

Concurrently with the issuance of the Series 2005A Bonds, the Borrowers will enter into an interest rate cap evidenced by a Rate Cap Transaction Confirmation (the "Initial Interest Rate Cap") with Wachovia Bank, N.A. (the "Interest Rate Cap Provider") which will have a term of five (5) years and will limit or "cap" the maximum interest rate exposure of the Borrowers with respect to the Series 2005A Bonds to 9.25 % per annum during such five (5) year period. Under the Loan Agreement, the Borrowers have agreed that on or prior to the expiration of the Initial Interest Rate Cap the Borrowers will either: (1) enter into additional replacement interest rate cap agreements (each a "Replacement Interest Rate Cap") for an additional five (5) years which have such terms that the projected Debt Service Coverage Ratio of the Borrowers for each year in which the Replacement Interest Rate Cap will be in effect will be at least 1.25, or (2) refinance the Senior Bonds. See "PLAN OF FINANCING -- Interest Rate Cap" herein.

### **Security for the Senior Bonds**

Project Fund and Capital Additions Fund. At the time of the issuance of the Senior Bonds, Senior Bond proceeds in the amount of \$12,795,409 will be deposited in the Project Fund established under the Indenture and used by the Borrowers to purchase the Facilities from the Seller. Also at the time of the issuance of the Senior Bonds, Senior Bond proceeds in the amount of \$50,000 will be deposited in the Capital Additions Fund established under the Indenture and will be used by the Borrowers to provide for certain repairs and equipment replacements at each of the Facilities.



Mortgages. The joint and several obligations of the Borrowers under the Loan Agreement will be secured by separate Mortgage and Security Agreements dated as of October 1, 2005 from each Borrower to the Trustee, which will encumber the Facility owned by such Borrower (individually, the “Mortgage” and, collectively, the “Mortgages”). The Mortgages will grant a first mortgage lien on and security interest in the real and personal property comprising the Facilities and a security interest in the Gross Revenues (as defined herein) of the Borrowers derived from any source, including without limitation, the Facilities (which security interest may be subordinate to future Short Term Indebtedness incurred for working capital purposes that under the Loan Agreement may be secured by accounts receivable of the Borrowers). Each of the Mortgages will secure all the obligations of all the Borrowers under the Loan Agreement and the Series 2005 Bonds. The Mortgages will be subject to certain Permitted Encumbrances (as defined in the Indenture). The Borrowers will also assign to the Trustee under the Mortgages, as further collateral for its obligations under the Loan Agreement, all contract rights and general intangibles of the Borrowers, including all the Borrowers’ rights under the Management Agreement and the Initial Interest Rate Cap and any Replacement Interest Rate Cap.

Operating Reserve Fund. The Borrowers are required under the Indenture to make monthly deposits to the Operating Reserve Fund of certain moneys remaining in the Revenue Fund established under the Indenture after the required transfers under the Indenture. Moneys in the Operating Reserve Fund may be used by the Trustee, under certain circumstances specified in the Indenture, to (i) provide the Facilities with funds for Operating Expenses, (ii) finance Capital Additions to the Facilities, or (iii) cure deficiencies on any Interest Payment Date or Principal Payment Date or on any date on which transfers are required to be made to the Bond Fund (other than with respect to the Subordinate Bonds), if Gross Revenues are insufficient in case of (i) or (iii) or if amounts in the Replacement Reserve Fund are insufficient in the case of (ii). Moneys in the Operating Reserve Fund in excess of 120 Days Cash-on-Hand may be transferred to the Borrowers, all as provided in the Indenture. See “SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS – Application of Gross Revenues” and “– Operating Reserve Fund” herein.

Replacement Reserve Fund. Commencing in December 2005, the Borrowers are required to make monthly deposits (the “Monthly Replacement Reserve Fund Deposit”) from revenues of the Facilities to the Replacement Reserve Fund in the amount of \$6,666.67 (and increasing each year incrementally with the Consumer Price Index commencing January 1, 2007) until a \$160,000 balance is achieved (which amount shall increase annually incrementally with the Consumer Price Index commencing January 1, 2007) (the “Replacement Reserve Fund Requirement”). Once the Replacement Reserve Fund Requirement is satisfied, the fund will be replenished as necessary by the Monthly Replacement Reserve Deposits when funds are withdrawn. Amounts in the Replacement Reserve Fund may be used, under certain circumstances specified in the Indenture, to provide the Facilities with funds for capital improvements or repairs, to pay Operating Expenses, to cure deficiencies on any Interest Payment Date or Principal Payment Date with respect to the Senior Bonds and to make the required monthly transfers to the Bond Fund with respect to the Senior Bonds under the Indenture on any date on which such transfers are required to be made if Gross Revenues and other available funds under the Indenture are insufficient. The Monthly Replacement Reserve Fund Deposit and the Replacement Reserve Fund Requirement are also subject to increase every five years commencing July 1, 2010 based on the recommendation in a property condition assessment required under the Loan Agreement. The failure to make any deposits to the Replacement Reserve Fund due to insufficient available moneys will not constitute an Event of Default under the Indenture or the Loan Agreement. See “SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS – Replacement Reserve Fund” herein.

Operating Covenants. In the Loan Agreement, the Borrowers have agreed to establish and charge rents, fees and other charges for services provided to residents of the Facilities and to restrict operating and maintenance expenses as is necessary to achieve certain stated Debt Service Coverage Ratios as of each Quarterly and Annual Evaluation Date. The Borrowers have also agreed, pursuant to the Loan Agreement, to establish and maintain a level of liquidity in the Operating Reserve Fund, together with amounts available under the Line of Credit, equal to specified levels of Days Cash-On-Hand, as set forth in the Loan Agreement and described herein. The Borrowers have also agreed, pursuant to the Loan Agreement, not to permit its trade payables account to exceed certain levels. See “SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS – Debt Service Coverage”, “— Liquidity Covenant” and “—Maximum Trade Payables Levels” herein.

## **Working Capital**

The Borrowers are not acquiring any cash or accounts receivable in connection with their purchase of the Facilities. In order to provide working capital to support the operations of the Facilities, upon the issuance of the Senior Bonds, the Borrowers will obtain an unsecured revolving line of credit in the amount of \$500,000 from the Manager (the “Line of Credit”) pursuant to the Working Capital Loan Agreement dated as of October 1, 2005 (the “Working Capital Loan Agreement”) among the Borrowers and the Manager. The Manager is obligated to advance amounts to the Borrowers under the Line of Credit upon receipt of duly executed disbursement requests from any Borrower, provided no event of default (or event which with the lapse of any applicable grace period or the giving of notice, would be an event of default) exists under the Working Capital Loan Agreement with respect to any Borrower. Advances made by the Manager under the Line of Credit shall bear interest at an annual rate of eight percent (8%), with principal and interest thereon payable monthly with the priority as provided in the Indenture. See “SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS – Application of Gross Revenues” herein for a discussion of the payment of principal and interest due on the Line of Credit. The Line of Credit will be unsecured. The Manager’s obligation to make advances under the Line of Credit shall continue until the later of December 31, 2010 or the date the amounts in the Facilities operating bank accounts and the Operating Reserve Fund equals 30 Days Cash-on-Hand (taking into account any amounts to be withdrawn in connection with the repayment of the Line of Credit), and the amount of all advances under the Line of Credit shall be due on such expiration date. Under the Working Capital Loan Agreement, the Borrowers may use advances under the Line of Credit for the purposes of financing working capital to pay shortfalls in Operating Expenses and debt service on the Senior Bonds and for no other reasons. See “THE FACILITIES - Working Capital” for a further description of the Line of Credit.

## **Subordinate Bonds**

Concurrently with the issuance of the Senior Bonds, the Authority will issue its \$3,195,000 Tax-Exempt Subordinate Health Care Revenue Bonds, Series 2005C (American Eagle LifeCare Project) (the “Subordinate Bonds” or “Series 2005C Bonds” and, together with the Senior Bonds, the “Series 2005 Bonds”) under the Indenture, which will be delivered to the Seller of the Facilities in payment of a portion of the purchase price of the Facilities. The Borrowers will agree under the Loan Agreement to make payments sufficient to pay debt service on the Subordinate Bonds; however, payment of the debt service on the Subordinate Bonds is subordinate in terms of payment and security to the Senior Bonds. The Subordinate Bonds will mature January 1, 2026, will bear interest at the rate of 8.5% per annum, payable semiannually from certain Gross Revenues remaining after the payment of certain items, including Operating Expenses and debt service on the Senior Bonds. The Subordinate Bonds are subject to annual Excess Funds Redemption from certain Gross Revenues remaining after the payment of various items, including Operating Expenses, debt service on the Senior Bonds and the necessary deposits in the Replacement Reserve Fund. See “PLAN OF FINANCING-Subordinate Bonds” and “SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS - Application of Gross Revenues” for a further description of the Subordinate Bonds and the priority of payment of principal and interest thereon. As long as the Senior Bonds are outstanding, the failure to pay debt service on the Subordinate Bonds will not be an Event of Default under the Indenture or Loan Agreement.

## **Application of Revenues**

The Borrowers are required under the Loan Agreement and Indenture to transfer, or cause the Manager to transfer, all of the Gross Revenues of the Borrowers to the Trustee weekly for deposit in the Revenue Fund established by the Authority with the Trustee under the Indenture except for an amount not to exceed, in the aggregate, \$30,000, which may be retained in one or more operating accounts held by the Borrowers or the Manager for the Facilities. The Borrowers may make withdrawals from the Revenue Fund at any time for the purpose of paying Operating Expenses. The Trustee will make payments or transfers from the Revenue Fund for the purposes and in the order of priority set forth under “SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS – Application of Gross Revenues” including the payment of Operating Expenses for the Facilities and debt service on the Senior Bonds.

## **Additional Indebtedness**

The Borrowers may incur Additional Indebtedness under certain circumstances described herein and set forth in the Loan Agreement. So long as the Loan Agreement is in effect and the Borrowers are in compliance with the provisions of the Indenture and the Loan Agreement, the Borrowers may incur Long Term Indebtedness for the purpose of financing Capital Additions, financing the acquisition, construction and equipping of additional facilities or refinancing existing indebtedness upon the satisfaction of certain conditions precedent set forth in the Loan Agreement, including: (i) compliance with certain historical and projected debt service coverage tests; the Leverage Ratio (as defined herein) following the issuance of such Long Term Indebtedness, and the Financial Covenants during the preceding Fiscal Year; and (ii) obtaining the prior written consent of the owners of more than 50% of the aggregate principal amount of all outstanding Senior Bonds (the "Majority of Owners of the Senior Bonds"). The Borrowers may incur Additional Long Term Indebtedness without meeting the foregoing requirements in order to acquire equipment or fixtures for the Facilities provided such Indebtedness is in an aggregate principal amount not in excess at the time of incurrence of three percent (3%) of the Net Revenues (as defined herein) of the Borrowers for the preceding Fiscal Year and is in the form of purchase money security interests or capital leases for such equipment. The Borrowers may incur Long Term Indebtedness for the purpose of refinancing existing Indebtedness upon the satisfaction of certain conditions precedent set forth in the Loan Agreement, including evidence that the annual debt service on all Long Term Indebtedness after such refinancing will not be any higher in each year than the annual debt service on the Long Term Indebtedness refinanced and obtaining the prior written consent of the Majority of Owners of the Senior Bonds. The Borrowers may incur Short Term Indebtedness for the purpose of providing working capital to pay Operating Expenses under certain circumstances set forth in the Loan Agreement and described herein. In addition, in the event the Borrowers elect to refinance the Senior Bonds instead of obtaining a replacement interest rate cap agreement (a "Senior Bond Refinancing Transaction") during the 10 year period following the issuance of the Series 2005A Bonds, such Senior Bond Refinancing Transaction may be made on a basis superior to the Series 2005C Bonds. See, "SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS – Additional Indebtedness."

## **Additional Bonds**

So long as the Loan Agreement is in effect and the Borrowers shall be in compliance with the provisions of the Indenture and the Loan Agreement, the Authority may, at the request of the Borrowers, issue Additional Bonds for the purpose of refunding the Series 2005 Bonds and any Additional Bonds issued under the Indenture (collectively, the "Bonds"). Additional Bonds may be issued upon the satisfaction of certain conditions precedent set forth in the Indenture, including obtaining the prior written consent of the Majority of the Owners of the Senior Bonds. Such Additional Bonds shall be secured by and shall be payable from the receipts and revenues of the Facilities on a parity with the Senior Bonds. Prior to the issuance of a series of Additional Bonds and the execution of a Supplemental Indenture in connection therewith, the Authority and the Borrowers shall enter into an amendment or supplement to the Loan Agreement and the Mortgages evidencing and securing the Borrowers' obligations to make payments in amounts sufficient to pay the principal and interest on all Outstanding Bonds (including the Additional Bonds to be issued).

## **Financial Feasibility Study and Sensitivity Analysis Letter**

Crowe Chizek and Company LLC, independent certified public accountants (the "Feasibility Consultant"), has prepared a Financial Feasibility Study (the "Feasibility Study") which is included in APPENDIX B to this Official Statement. The Feasibility Study includes a financial forecast (the "Financial Forecast") of the Borrowers and the Facilities based upon assumptions of the Borrowers and the Manager, including certain assumptions as to the principal amounts and interest rates on the Senior Bonds, as of and for the two months ended December 31, 2005 and as of and for each of the years ending December 31, 2006 through December 31, 2010. In addition, the Feasibility Consultant has delivered a letter dated November 28, 2005 containing a sensitivity analysis (the "Sensitivity Analysis Letter") recomputing the Debt Service Coverage Ratios and Days Cash on Hand assuming the principal amount of \$11,120,000 for the Series 2005A Bonds and \$2,735,000 for the Series 2005B Bonds and an annual interest rate of 9.25% on the Series 2005A Bonds and the Series 2005B Bonds during the forecast period; the Sensitivity Analysis Letter is also included in APPENDIX B. The Feasibility Study states that there will usually be differences between the forecasted data and actual results because events and circumstances frequently do not occur as expected, and those differences may be material. No attempt has been made herein to summarize the

Sensitivity Analysis Letter or the Feasibility Study. The Sensitivity Analysis Letter and the Feasibility Study, including the Financial Forecast and all notes and assumptions set forth therein, should each be read in its entirety.

### **Bondholders' Risks**

THE SENIOR BONDS ARE HIGHLY SPECULATIVE IN NATURE AND AN INVESTMENT IN THE SENIOR BONDS IS SUBJECT TO A HIGH DEGREE OF RISK. NO PROSPECTIVE PURCHASER OF THE SENIOR BONDS SHOULD MAKE A DECISION TO PURCHASE ANY OF THE SENIOR BONDS WITHOUT FIRST READING AND CONSIDERING THIS ENTIRE OFFICIAL STATEMENT, INCLUDING ALL APPENDICES ATTACHED HERETO, AND IN PARTICULAR, THE SECTION HEREIN ENTITLED "BONDHOLDERS' RISKS." THERE IS NO PUBLIC MARKET FOR THE SENIOR BONDS.

### **Limited Obligations**

THE SENIOR BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY AND WILL BE PAYABLE SOLELY FROM AND SECURED EXCLUSIVELY BY PAYMENTS, REVENUES AND OTHER AMOUNTS PLEDGED THERETO PURSUANT TO THE INDENTURE. THE SENIOR BONDS DO NOT REPRESENT OR CONSTITUTE A DEBT OF THE AUTHORITY OR THE STATE WITHIN THE MEANING OF THE PROVISIONS OF THE CONSTITUTION OR STATUTES OF THE STATE OR A PLEDGE OF THE FAITH AND CREDIT OF THE AUTHORITY OR THE STATE, AND THE SENIOR BONDS DO NOT GRANT TO THE OWNERS OR HOLDERS THEREOF ANY RIGHT TO HAVE THE AUTHORITY OR THE STATE LEVY ANY TAXES OR APPROPRIATE FUNDS FOR THE PAYMENT OF THE PRINCIPAL THEREOF AND INTEREST THEREON. THE AUTHORITY HAS NO TAXING POWER.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF OR THE INTEREST ON ANY BOND OR FOR ANY CLAIM BASED THEREON OR ON THE INDENTURE, AGAINST ANY PAST, PRESENT OR FUTURE MEMBER, OFFICER, DIRECTOR, EMPLOYEE OR AGENT, AS SUCH OF THE AUTHORITY OR OF ANY PREDECESSOR OR SUCCESSOR CORPORATION, EITHER DIRECTLY OR THROUGH THE AUTHORITY OR OTHERWISE, WHETHER BY VIRTUE OF ANY CONSTITUTION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY, OR OTHERWISE.

### **Description and Summaries**

This Official Statement contains brief descriptions of, among other things, the Authority, the Borrowers, American Eagle, the Facilities, the Manager, the Seller, the Senior Bonds, the Subordinate Bonds, the Loan Agreement, the Mortgages, the Indenture, the Management Agreement, the Initial Interest Rate Cap and the Line of Credit and other information relating to the Senior Bonds and the Facilities. Such descriptions do not purport to be comprehensive or definitive. All references in this Official Statement to documents are qualified in their entirety by reference to such documents, and references to the Senior Bonds are qualified in their entirety by reference to the final definitive Senior Bonds. Until the issuance and delivery of the Senior Bonds, copies of the Indenture, the Loan Agreement, the Mortgages and other documents described in this Official Statement may be obtained upon request from the Underwriter and copies of these documents may be obtained from the Trustee or the Borrowers after delivery of the Senior Bonds.

## **PLAN OF FINANCING**

### **The Project**

The Series 2005 Bonds are being issued for the purpose of financing the undertaking of the Project by the Borrowers, consisting of (a) the acquisition by the Borrowers of the Facilities from the Seller simultaneously with the issuance of the Series 2005 Bonds; (b) the funding of certain repairs and equipment replacements for the Facilities; and (c) the payment of the expenses incurred in connection with the issuance of the Series 2005 Bonds.

The Borrowers have agreed to acquire the Facilities pursuant to the Purchase Agreement. The purchase price for the Facilities under the Purchase Agreement is \$12,795,409 in cash and the delivery to the Seller of the

\$3,195,000 aggregate principal amount of Subordinate Bonds. At or prior to the date of delivery of the Series 2005 Bonds, title to the Facilities will be held by the Seller, which will transfer the Facilities to the Borrowers simultaneously with the issuance of the Series 2005 Bonds, pursuant to the Loan Agreement and the Purchase Agreement. For more information relating to the Purchase Agreement, see “THE FACILITIES – Terms of Borrowers’ Purchase of the Facilities” herein.

### **Interest Rate Cap**

The Series 2005A Bonds will bear interest at a variable rate per annum equal to the federal funds target rate as announced by the Federal Open Market Committee of the Federal Reserve Board and published in the Money Rates Section of *The Wall Street Journal* from time to time plus three and twenty-five hundredths percent (3.25%) (the “Applicable Interest Rate”). Concurrently with the issuance of the Series 2005A Bonds, the Borrowers will enter into an interest rate cap evidenced by a Rate Cap Transaction Confirmation (the “Initial Interest Rate Cap”) with Wachovia Bank, N.A. (the “Interest Rate Cap Provider”) which will have a term of five (5) years and will limit or “cap” the maximum interest rate exposure of the Borrowers with respect to the Series 2005A Bonds to 9.25 % per annum during such five (5) year period. Under the Initial Interest Rate Cap, the Borrowers will pay a one-time up front fee to the Interest Rate Cap Provider. Furthermore, under the Loan Agreement, the Borrowers have agreed that on or prior to the expiration of the Initial Interest Rate Cap and any Replacement Interest Rate Cap, the Borrowers will either: (1) enter into an additional replacement interest rate cap agreement (the “Replacement Interest Rate Cap”) which has such terms that the projected Debt Service Coverage Ratio of the Borrowers for each year in which the Replacement Interest Rate Cap is in effect will be at least 1.25, as evidenced by a report of a Consultant delivered to the Authority and the Trustee, or (2) refinance the Senior Bonds. The Borrowers obligation to provide an Interest Rate Cap will terminate as of the 10<sup>th</sup> anniversary of the issuance of the Series 2005A Bonds. In the event the Borrowers elect to refinance the Senior Bonds instead of obtaining a Replacement Interest Rate Cap (a “Senior Bond Refinancing Transaction”) during the 10 year period following the issuance of the Series 2005A Bonds, such Senior Bond Refinancing Transaction may be made on a basis superior to the Series 2005C Bonds.

### **Subordinate Bonds**

The Subordinate Bonds will mature January 1, 2026, will bear interest at the rate of 8.5% per annum, payable semiannually from certain Gross Revenues remaining after the payment of certain items, including Operating Expenses and debt service on the Senior Bonds. The Borrowers will agree under the Loan Agreement to make payments sufficient to pay debt service on the Subordinate Bonds; however, payment of the debt service on the Subordinate Bonds is subordinate in terms of payment and security to the Senior Bonds. The Subordinate Bonds are subject to annual Excess Funds Redemption, without premium, once each year within 30 days after the delivery to the Trustee of the compiled annual financial statements for the Borrowers for the immediately preceding fiscal year and a certificate of the Authorized Borrower Representative stating that the Borrowers are in compliance with all covenants contained in the Financing Documents, from certain Gross Revenues remaining after the payment of various items, including Operating Expenses, debt service on the Senior Bonds and the necessary deposits in the Replacement Reserve Fund. See “SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS - Application of Gross Revenues” for a further description of the Subordinate Bonds and the priority of payment of principal and interest thereon. As long as the Senior Bonds are outstanding, the failure to pay debt service on the Subordinate Bonds will not be an Event of Default under the Indenture or Loan Agreement.

In addition, under the Indenture, the monthly transfer of monies to the Bond Fund to accumulate the amount necessary for the payment of principal and interest due on the Subordinate Bonds may not be made if: (i) as of the most recent Quarterly Evaluation Date, Maximum Trade Payables Level shall have been exceeded; (ii) an Event of Default shall have occurred and be continuing; (iii) the Borrowers shall have failed to comply with the Debt Service Coverage Ratio Requirements with respect to the most recent Quarterly Evaluation Date; or (iv) the Borrowers shall have failed to comply with the Liquidity Covenant with respect to the most recent Quarterly Evaluation Date. See “SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS -Application of Gross Revenues” herein.

## Line of Credit

In order to provide working capital to support the operations of the Facilities, upon the issuance of the Senior Bonds, the Borrowers will obtain the Line of Credit from the Manager in the amount of \$500,000. See, “THE FACILITIES – Working Capital” for further information about the Line of Credit.

## Estimated Uses and Sources of Funds

The following table sets forth the estimated sources and uses of funds (other than accrued interest) in connection with the undertaking of the Project, including proceeds of the Senior Bonds and the Subordinate Bonds.

### ESTIMATED SOURCES OF FUNDS:

Principal Amount of Series 2005A Bonds .....	\$11,120,000
Principal Amount of Series 2005B Bonds .....	2,735,000
Principal Amount of Subordinate Bonds <sup>1</sup> .....	<u>3,195,000</u>
Total Estimated Sources of Funds.....	<u>\$17,050,000</u>

### ESTIMATED USES OF FUNDS:

Purchase Price of Facilities <sup>2</sup> .....	\$15,990,409
Costs of Issuance and Other Closing Costs <sup>3</sup> .....	1,009,591
Capital Additions Fund <sup>4</sup> .....	<u>50,000</u>
Total Uses of Funds .....	<u>\$17,050,000</u>

<sup>1</sup> The Subordinate Bonds will be issued to the Seller as payment of a portion of the Purchase Price of the Facilities

<sup>2</sup> Purchase price under Purchase Agreement and is comprised of cash in the amount \$12,795,409 and the delivery to the Seller of the Subordinate Bonds.

<sup>3</sup> Includes Underwriter’s discount, counsel fees, title and recording costs, report fees, printing, Feasibility Study, Authority fees, Trustee fees and financial advisor fee, Initial Interest Rate Cap fee and certain other costs of issuance.

<sup>4</sup> To be deposited in the Capital Additions Fund and used to fund certain repairs and equipment replacements at the Facilities.

## **ANNUAL DEBT SERVICE REQUIREMENTS**

Included in APPENDIX A hereto are schedules of the amounts required for the payment of principal of and interest on the Series 2005 Bonds for each twelve-month period ending on January 1 of each year, assuming: (1) an interest rate on the Series 2005A Bonds of 9.25% per year (the actual annual interest payments on the Series 2005A Bonds will depend upon the actual rate of interest applicable to the Series 2005A Bonds from time to time); and (2) that only interest is paid on the Series 2005C Bonds until maturity (the actual debt service payments on the Series 2005C Bonds will depend on whether any of the Series 2005C Bonds are redeemed with excess revenues of the Borrowers prior to maturity).

## **THE AUTHORITY**

The Authority was established on May 15, 2005, as successor to the Indiana Health Facility Financing Authority (the "IHFFA"), which was created in 1983 pursuant to the provisions of the Act, and is organized and existing under and by virtue of the Act as a public body politic and corporate, not an agency of the State of Indiana (the "State"), but as an independent public instrumentality exercising essential public functions. Under the Act, the Authority is authorized to make loans to "participating providers" (as defined in the Act) in order to provide funds to finance, refinance and provide reimbursement for all or a portion of any and all costs authorized under the Act and related to the acquisition, lease, construction, repair, restoration, reconditioning, refinancing, installation, or housing of "health facility property" (as defined in the Act). The Authority may finance health facility property located in Indiana or outside Indiana if the financing also includes a substantial component, as determined by the Authority, for the benefit of a health facility located in Indiana. Further, the participating provider (or an affiliate thereof) in any financing for a health facility outside Indiana must operate a substantial health facility, as determined by the Authority, in Indiana. The Authority has no taxing power.

The Act provides that the Authority shall consist of seven members, four of whom are appointed by the Governor of the State for terms of four years each. Two of the four members appointed by the Governor must be knowledgeable in health care or public finance and investment matters related to health care and two of the members appointed by the Governor must be knowledgeable in higher education or public finance and investment matters related to higher education. The Authority shall also include among its members (i) the Governor or the Governor's designee, who shall serve as the chairman of the Authority, (ii) the state public finance director or the public finance director's designee, and (iii) the state health commissioner or the state health commissioner's designee. All Authority members must be residents of the State, with not more than three of the four members appointed by the Governor being of the same political party. All Authority members serve without compensation but are entitled to reimbursement for actual and necessary expenses as determined by the Authority. The Governor shall appoint an Executive Director to serve at the pleasure of the Governor and to receive such compensation as the members of the Authority shall determine. The Executive Director serves as *ex officio* secretary of the Authority, administers, manages and directs the employees of the Authority (under the direction of the members of the Authority), approves all accounts and expenses and performs other additional duties as directed by the members of the Authority.

The Act provides that the State of Indiana pledges to, and agrees with, the holders of any obligations issued under the Act that it will not limit or alter the rights vested in the Authority by the Act until such obligations together with the interest thereon are fully met and discharged; provided, however, that nothing in the Act precludes such limitation or alteration if and when adequate provision shall be made by law for the protection of the holders of such obligation.

## **THE FACILITIES**

### **General**

The Facilities consist of the following three facilities: (i) The Home Place, a 60-unit senior adult independent living facility located at 6612-6745 Millside Drive, Indianapolis, Marion County, Indiana ("The Home Place"), which will be acquired by American Eagle Home Place, LLC; (ii) Sanders Glen, a 111-unit rental retirement community located at 334 South Cherry Street, Westfield, Hamilton County, Indiana ("Sanders Glen"), which will be acquired by American Eagle Sanders Glen, LLC; and (iii) Morning Breeze Retirement Community &

Healthcare Center, which is located in 950 North Lakeview Drive, Greensburg, Decatur County, Indiana, and is comprised of one building containing 44 licensed comprehensive care nursing beds and 31 licensed residential care beds contained in 27 units and five buildings containing 18 independent living units ("Morning Breeze"), which will be acquired by American Eagle Morning Breeze, LLC. See APPENDIX C – "The Facilities" for additional information about the Facilities, including certain historical and operating information with respect to the Facilities. APPENDIX C has been prepared by the Seller and the Manager.

### **Borrowers' Purchase of the Facilities**

In the Purchase Agreement, the Seller makes certain representations and warranties with respect to the Facilities. The Seller's indemnification of the Borrowers under the Purchase Agreement for any breach of any covenant or agreement by the Seller or the inaccuracy of any document provided by the Sellers expires five years after the transfer of the Facilities to the Borrowers. The purchase price for the Facilities under the Purchase Agreement is \$12,795,409 in cash and the delivery to the Seller of the \$3,195,000 aggregate principal amount of Subordinate Bonds. Pursuant to the Purchase Agreement, the Seller will deliver a limited warranty deed and a bill of sale conveying each of the Facilities to the Borrowers upon the issuance of the Senior Bonds and the acquisition of the Facilities by the Borrowers.

### **Operation of the Facilities**

Pursuant to the Management Agreement, the Borrowers will retain the Manager to manage the Facilities for an initial term of fifteen (15) years. See "THE MANAGER - Management Agreement." The Manager has been managing The Home Place and Sanders Glen since December 1996, and Morning Breeze since August 2003.

### **Regulatory Matters**

The Home Place and Sanders Glen are not required in the State of Indiana to be licensed to operate independent living units and these Facilities admit only residents who pay from private pay sources. Morning Breeze is licensed by the Indiana State Department of Health for (1) 44 comprehensive care nursing beds and (2) 31 residential care beds. The 18 independent living units at Morning Breeze are not required to be licensed. Morning Breeze admits residents to the nursing beds who pay from private, Medicare and Medicaid sources. Residents in the 31 residential care beds and 18 independent living units pay only from private pay sources.

During September 2005, a Life Safety Code and Health Code Survey was conducted at Morning Breeze by the Division of Long Term Care of the Indiana State Department of Health (the "Division") to determine if the facility was in compliance with federal participation requirements for nursing homes participating in the Medicare and Medicaid programs. Morning Breeze was notified on September 22, 2005 that the survey found certain deficiencies. Morning Breeze submitted a plan of correction to the Division at the beginning of October 2005 and implemented such plan. On October 31, 2005, a revisit with respect to the Life Safety Code Survey was conducted by the Division and on November 4, 2005 the Division notified Morning Breeze that the deficiencies had been corrected. On November 3, 2005, a revisit with respect to the Health Code Survey was conducted by the Division and on November 10, 2005 Morning Breeze was notified that the facility was determined to be in substantial compliance with the requirements for participation in the Medicare and Medicaid programs.

### **Seller's Discussion of Past Financial and Operational Statistics of the Facilities**

The Facilities are currently owned by the Seller, and have been operated by the Manager since December 1996 with respect to The Home Place and Sanders Glen and August 2003 with respect to Morning Breeze. The following is a brief discussion prepared by the Seller with respect to the operating statistics for the Facilities for the years ended December 31, 2002, 2003 and 2004 and the ten months ended October 31, 2005 (as set forth in APPENDIX C for each Facility) and the unaudited financial statements for the Facilities for the years ended December 31, 2002, 2003 and 2004 and the ten months ended October 31, 2005 (as set forth in APPENDIX D for the Facilities); provided, however, such operating statistics do not include such statistics for Morning Breeze for 2002 and such unaudited financial statements do not include financial information for Morning Breeze for 2002 or 2003 before August 2003 because Morning Breeze was not acquired by the Seller and managed by the Manager until August 2003.



Occupancy. The Home Place has 60 available senior adult independent living units. The average percentages of occupancy for the years ended December 31, 2002, 2003 and 2004 were 79.3%, 82.2% and 88.3%, respectively. For the ten months ended October 31, 2005, 94.7% of the units were occupied.

Sanders Glen has 111 available rental retirement units. The average percentages of occupancy for the years ended December 31, 2002, 2003 and 2004 were 85.6%, 86.3% and 83.3%, respectively. For the ten months ended October 31, 2005, 77.6% of the units were occupied. During the latter portion of 2004 a new facility opened in the Sanders Glen service area. The initial unit pricing in the new facility was set at a range of rates similar to that charged by Sanders Glen. Recently the new building achieved stabilization and has raised its rates. Sanders Glen is now experiencing an increase in potential resident leads and inquiries.

Morning Breeze has 44 licensed nursing beds, of which 43 beds are in use, 31 licensed assisted living beds, in 27 units, and 18 senior adult independent living units. The average percentages of occupancy for the years ended December 31, 2003 and 2004 and the ten months ended October 31, 2005 were as follows:

<u>Occupancy %</u>	Year Ended December 31,		Ten Mos. Ended
	<u>2003</u>	<u>2004</u>	October 31, <u>2005</u>
Nursing Beds	86.7%	90.7%	83.4%
Assisted Living Units	81.0%	88.7%	85.1%
Independent Living Units	90.9%	75.3%	87.7%

Operating Income. The Home Place and Sanders Glen were acquired by the Seller in December 1996. Morning Breeze was acquired by the Seller in August 2003. A combined summary of operating income for the years ended December 31, 2002, 2003 and 2004 and the ten months ended October 31, 2005 is as follows:

	Years Ended December 31,			Ten Months Ended
	<u>2002</u>	<u>2003</u>	<u>2004</u>	October 31, <u>2005</u>
Total revenues	\$2,032,191	\$3,344,818	\$5,560,569	\$4,903,620
Operating expenses	1,207,773	2,439,087	4,089,499	3,880,718
Operating income	\$824,418	\$905,731	\$1,471,070	\$1,022,902

See APPENDIX C – “The Facilities” hereto for certain historical and operating information with respect to each of the Facilities and see APPENDIX D – “Financial Information for the Facilities” for historical financial information for the Facilities

### **Working Capital**

The Borrowers are not acquiring any cash or accounts receivable in connection with its purchase of the Facilities. In order to provide working capital to support the operations of the Facilities, upon the issuance of the Senior Bonds, the Borrowers will obtain an unsecured revolving line of credit in the amount of \$500,000 from the Manager (the “Line of Credit”) which will be evidenced by a revolving credit promissory note from the Borrowers to the Manager (the “Working Capital Note”) and a Working Capital Loan Agreement among the Borrowers and Manager (the “Working Capital Loan Agreement”). The Manager is obligated to advance amounts to the

Borrowers under the Line of Credit upon receipt of duly executed disbursement requests from any Borrower, provided no event of default (or event which with the lapse of any applicable grace period or the giving of notice, would be an event of default) exists under the Working Capital Loan Agreement with respect to any Borrower. Advances made by the Manager under the Line of Credit shall bear interest at an annual rate of eight percent (8%), with principal and interest thereon payable monthly with the priority as provided in the Indenture. The Working Capital Note will bear interest at an annual rate of eleven percent (11%) upon an Event of Default thereunder. Interest due on the Line of Credit will accrue, but interest due and unpaid will not compound. See "SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS – Application of Gross Revenues" herein for a discussion of the payment of principal and interest due on the Line of Credit. The Line of Credit will be unsecured. The Manager's obligation to make advances under the Line of Credit shall continue until the later of December 31, 2010 or the date amounts in the Facilities operating bank accounts and the Operating Reserve Fund equals 30 Days Cash-on-Hand (taking into account any withdrawal to made therefrom in connection with the repayment of the Line of Credit), and the amount of all advances under the Line of Credit shall be due on such expiration date. Under the Working Capital Loan Agreement, the Borrowers may use advances under the Line of Credit for the purposes of financing working capital and debt service on the Senior Bonds and for no other reasons.

Payment of monthly principal and interest on the Line of Credit is subordinated in full to the payment of Operating Expenses, debt service on the Senior Bonds, debt service on any Long-Term Indebtedness permitted under the Loan Agreement, and payment of the Subordinate Management Fee. The payment of principal and interest due on the Line of Credit by the Borrowers may not be made under the Indenture if: (i) as of the most recent Quarterly Evaluation Date, Maximum Trade Payables Level shall have been exceeded; (ii) an Event of Default shall have occurred and be continuing; (iii) the Borrowers shall have failed to comply with the Debt Service Coverage Ratio Requirements with respect to the most recent Quarterly Evaluation Date; or (iv) the Borrowers shall have failed to comply with the Liquidity Covenant with respect to the most recent Quarterly Evaluation Date. See "SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS -Application of Gross Revenues" herein

**BECAUSE NO ACCOUNTS RECEIVABLE OR CASH ARE BEING ACQUIRED, THE FACILITIES WILL BE DEPENDENT UPON THE LINE OF CREDIT TO PROVIDE ANY NECESSARY WORKING CAPITAL IN EXCESS OF THAT PROVIDED BY OPERATIONS. THEREFORE, THE FACILITIES MAY BE DEPENDENT UPON THE ABILITY OF THE MANAGER TO MAKE ADVANCES UNDER THE LINE OF CREDIT. THERE CAN BE NO ASSURANCE THAT THE MANAGER WILL ADVANCE FUNDS UNDER THE LINE OF CREDIT. THE FEASIBILITY STUDY PROJECTS THAT THE LINE OF CREDIT WILL BE USED IN BETWEEN CLOSING AND DECEMBER 31, 2005, AFTER WHICH IT IS PROJECTED THAT SUFFICIENT CASH WILL BE GENERATED FROM OPERATIONS TO PROVIDE FOR THE LIQUIDITY NEEDS OF THE BORROWERS. HOWEVER, NO ASSURANCES CAN BE GIVEN THAT THE OPERATIONS OF THE FACILITIES WILL GENERATE CASH AT THE LEVELS PROJECTED IN THE FEASIBILITY STUDY OR SUFFICIENT TO MEET THE FACILITIES' LIQUIDITY REQUIREMENTS.**

Unaudited financial statements of the Manager for the years ended December 31, 2002, 2003 and 2004 and the ten months ended October 31, 2005 are included in APPENDIX H hereto solely for the purpose of enabling the prospective purchasers of the Senior Bonds to evaluate the financial ability of the Manager to continue to provide management services under the Management Agreement and to fund advances under the Line of Credit and should not be relied upon in any manner as an indication of the creditworthiness of the Borrowers or the Facilities. Neither the Senior Bonds or the Subordinate Bonds nor any of the Borrowers' obligations to make payments under the Loan Agreement constitute a debt or a pledge of the credit of the Manager or any affiliate thereof.

#### **Capital Additions Fund Deposit**

Proceeds of the Senior Bonds in the amount of \$50,000 will be deposited in the Capital Additions Fund established by the Trustee under the Indenture, and shall be applied to pay certain repair and equipment replacement costs at the Facilities. Under the Loan Agreement, the Borrowers will covenant to complete such repairs and equipment replacements by May 1, 2006.

## **The Seller**

The Seller, Westfield Associates, LLC, was organized as an Indiana limited liability company on November 26, 1996. In December 1996 the Seller acquired The Home Place and Sanders Glen and in August 2003 acquired Morning Breeze. The members of the Seller are Jefferson Healthcare Services, Inc., (“Jefferson”), an Indiana S Corporation, and WLB Associates, Inc. (“WLB”), an Oklahoma S Corporation. Jefferson owns 51% of The Home Place and Sanders Glen and 75% of Morning Breeze. WLB owns 49% of The Home Place and Sanders Glen and 25% of Morning Breeze. The shareholders of Jefferson are C. Lynn Redmond, Wayne S. Tush and James R. Johnson and the shareholder of WLB is Wayne L. Beverage. Messrs. Redmond, Tush and Johnson are also the shareholders of the Manager, Medical Rehabilitation Centers, Inc.

## **Environmental Assessments**

A Phase I Environmental Assessment for each of the Facilities (each an “Environmental Assessment” and collectively, the “Environmental Assessments”) was conducted by Tetra Tech, Inc. (“Tetra Tech”) and the results set forth in reports dated August 2005. The Environmental Assessments did not identify any recognized environmental conditions at the facilities except the following with respect to Sanders Glen: (i) an above ground storage tank containing elevator hydraulic oil located in a mechanical room with no secondary containment; concern was expressed that a release or spill of oil may enter the floor drain in the mechanical room; and (ii) a house and an outbuilding previously located on the site of the Facility were demolished in 2003 and information documenting the removal and disposal of materials was not available; concern was expressed that the potential exists for hazardous substances to be present in the demolition area. The condition described in (i) above shall be corrected by the installation of a \$350 containment berm around the storage tank as part of the repairs and equipment replacements funded by the Series 2005 Bonds. As to the condition described in (ii) above, following the recommendation of Tetra Tech, test borings were performed at the site where the house and outbuilding were formerly located, which borings showed no exceeding of permitted levels of hazardous substances, and no further action was recommended. The Environmental Assessments also involved limited testing for asbestos materials at the Facilities and none were found.

## **Property Condition Assessments**

A Property Condition Assessment for each of the Facilities (each a “Property Condition Assessment” and collectively, the “Property Condition Assessments”) was conducted by Tetra Tech and the results set forth in reports dated August 2005. The Property Conditions Assessments determined the basic structural condition and integrity of the Facilities and their components and evaluated the physical condition of the sites of the Facilities. For each Facility, the Property Condition Assessments contain recommendations with respect to certain repairs and equipment replacements at the Facilities, which the Tetra Tech, Inc. estimates in the aggregate will cost not more than \$50,000. Proceeds of the Senior Bonds in such amount will be deposited in the Capital Additions Fund and will be used to fund such repairs and equipment replacements, which the Borrowers have covenanted in the Loan Agreement to complete by May 1, 2006.

## **Americans With Disabilities Act**

The Americans with Disabilities Act of 1990, as amended (the “ADA”), applies to buildings constructed after 1990. The Home Place was built in two phases in 1990 and 1991, Sanders Glen was built in two phases in 1990 and 1998, and Morning Breeze was built in 1999. The Seller believes that the Buildings are in compliance with the ADA.

## **Real Estate Matters**

With respect to each of the Facilities, the title insurance company will provide affirmative insurance that the use is permitted under the terms of the local land-use ordinances, by variance, as a special exception, as a special use or as a pre-existing non-conforming use, as the case may be. The title company also will provide coverage against judicially forced removal or alteration of any structure in the event of a dimensional non-conformity. However, to the extent any of the Facilities constitute pre-existing non-conforming uses or structures, in the event of a casualty there may be restrictions in the applicable local ordinances which would require that the Facilities be re-

built in accordance therewith (such as current setback requirements) which may limit the extent of restoration or prevent the use or the re-building of all or a portion of the Facilities.

The title insurance policy delivered with respect to Sanders Glen in connection with the issuance of the Senior Bonds contained an exception with respect to an unused 30-foot railroad right-of-way located on the site at its northern edge. Research indicates that some time in the past such right-of-way was conveyed by quitclaim deed by the railroad company to the local municipality and it is unclear whether the municipality or the Sanders Glen Borrower would prevail in an action concerning ownership of such right-of-way. No buildings are located on the right-of-way nor is the right-of-way required for compliance with any local setback requirements nor do the Borrowers deem such right-of-way necessary for the operation of Sanders Glen. The Manager has received indications that the local municipality may use such right of way for a walking path, which the Manager believes would be advantageous to Sanders Glen by increasing its visibility to the public.

## **THE BORROWERS**

### **General**

The Borrowers, American Eagle Home Place, LLC, American Eagle Morning Breeze, LLC and American Eagle Sanders Glen, LLC, are limited liability companies formed under the laws of Indiana in 2005 for the purpose of owning and operating the Facilities on a not-for-profit basis. The sole member of each of the Borrowers is American Eagle LifeCare Corporation ("American Eagle"), a Tennessee corporation which is recognized by the Internal Revenue Service ("IRS") as an organization exempt from federal income taxation under section 501(c)(3) of the Code pursuant to an exemption letter dated November 15, 2002. By virtue of having American Eagle its sole member, each of the Borrowers is also an organization exempt from federal income taxation under section 501(c)(3).

American Eagle was formed under the laws of Tennessee on May 6, 2002 for various charitable purposes including operation of nursing homes, senior living facilities and assisted living facilities on a not-for-profit basis consistent with section 501(c)(3) of the Code. Through related organizations it operates three nursing homes in Wisconsin and an assisted living facility in Georgia in addition to the Facilities, which other facilities and the revenues therefrom will not be pledged in any way to secure the obligations of the Borrowers under the Trust indenture, Loan Agreement or Series 2005 Bonds. American Eagle is not obligated under the Loan Agreement other than its covenant to comply with certain tax covenants, including to maintain its nonprofit status and its existence as a 501(c)(3) organization and to not take any actions which would adversely affect the tax-exempt status of the Series 2005A Bonds and the Subordinate Bonds.

THE SERIES 2005 BONDS ARE NOT A DEBT OR OBLIGATION OF AMERICAN EAGLE OR ANY OF ITS AFFILIATES OTHER THAN THE BORROWERS. NO RECOURSE SHALL BE HAD AGAINST AMERICAN EAGLE OR ANY OF ITS AFFILIATES OTHER THAN THE BORROWERS WITH RESPECT TO AMOUNTS DUE ON THE SERIES 2005 BONDS OR UNDER THE INDENTURE, THE LOAN AGREEMENT OR THE MORTGAGES.

### **Management**

The affairs of each of the Borrowers are managed and administered by its Board of Managers (the "Board"), which has retained the Manager to manage the day-to-day operations of the Facilities.

The current members and officers of the Board for each of the Borrowers, their principal occupations, and brief biographies of each, are set forth below:

<u>Name</u>	<u>Principal Occupation</u>	<u>Location</u>
F. Scott Kellman Director and President	Healthcare Finance	Ann Arbor, MI
John E. Gillmor Director, Vice President and Secretary	Attorney	Nashville, TN
Mark A. Miller Director	Marketing Consultant	Bala Cynwyd, PA

### **Biographical Information of Board Members**

F. Scott Kellman: Mr. Kellman, age 49, is an experienced healthcare finance executive who currently serves as Senior Vice President of Healthcare Property Investors, a financing company for the healthcare industry, a position Mr. Kellman has held since June 2005. Prior to that, Mr. Kellman was Treasurer and Senior Vice President of Corporate Finance and Real Estate for Tenet Healthcare Corporation (NYSE: THC), a \$10 billion in revenues hospital company. Mr. Kellman was responsible for managing Tenet's relationships with financial and strategic advisors, investment and commercial banks, and other financial institutions. He oversaw the company's corporate finance, cash management, and investment management functions, including raising debt and equity funds in the public markets, establishing lines of credit, and interest rate management. He was also responsible for managing the financial aspects of the significant real estate holdings related to the company's hospital portfolio. Mr. Kellman moved to Tenet from Omega Healthcare Investors, Inc. (NYSE: OHI), a healthcare real estate investment trust with \$1.1 billion in assets where he served as Chief Operating Officer from 1998 to 2002. His responsibilities included directing acquisitions, operations, and portfolio management. Prior to his promotion to COO he served as executive vice president from 1994 to 1998 and senior vice president from 1993 to 1994. Before that, Mr. Kellman was the founder and chief operating officer of Medical REIT, a Philadelphia healthcare real estate investment trust that merged with Omega. From 1980 to 1991, Mr. Kellman served as an attorney and banker with various firms in Philadelphia and Washington, D.C. He earned his Bachelor of Arts degree in political science at the University of Michigan Honors College, graduating magna cum laude, and his juris doctor degree at the University of Michigan Law School.

John E. Gillmor: Mr. Gillmor, age 68, is a Member in the law firm of Boulton, Cummings, Connors & Berry, PLC and practices in the areas of health care, corporate law and mergers and acquisitions. He was previously Executive Vice President, General Counsel and a Director of Health America Corporation, a NYSE-listed company that operated health maintenance organizations. Prior to that he was a Senior Vice President and General Counsel of Hospital Affiliates International, Inc. ("HAI"), a NYSE-listed company that operated and managed hospitals in the United States and abroad. Mr. Gillmor is a past President of the Board of Trustees of University School of Nashville and serves on the Board of Directors, and is Past President, of the Nashville Opera Association and is a past chairman of the continuing legal education committee of the Nashville Bar Association. Mr. Gillmor is a contributing author of Planning, Financing and Constructing Health Care Facilities and The Managed Health Care Handbook. Mr. Gillmor holds a Bachelor of Arts in History from Swarthmore College and an LLB degree from the University of Pennsylvania Law School.

Mark A. Miller: Mr. Miller, age 47, is a seasoned senior marketing executive. For the past two years he has been a senior marketing and operations consultant to the health care and automotive industries with a particular emphasis on increasing market share of his clients. During the six years prior thereto he was Vice President, International Marketing of Wall Street Institute, Inc. ("WSI") the world's largest English instruction company with operations in 22 countries and annual revenues in excess of \$150 million. While at WSI, Mr. Miller's aggressive

marketing campaigns contributed to a 40% average annual growth in revenues. Previous experience includes executive level marketing positions in large publicly traded corporations involving extensive advertising in electronic media with dramatic results. Mr. Miller is a magna cum laude graduate of Duke University with a bachelor of science in Psychology.

### **Limited Experience and Reserves**

The obligations of the Borrowers under the Loan Agreement and Mortgages will be joint and several and fully recourse to the Borrowers. However, the Borrowers have no appreciable assets and will be dependent upon the successful operation of the Facilities to meet their obligations under the Loan Agreement and the Mortgages. The Borrowers have not conducted any operations to date. The Borrowers will contract with the Manager for the management of the Facilities. Also, the Borrowers have covenanted under the Loan Agreement that they shall not engage in any business other than the operations of the Facilities and activities associated with such operations.

### **Home Office Fees**

The Borrowers expect to pay American Eagle a monthly fee, initially in the amount of \$2,550 per month, to be adjusted annually through negotiation between the Borrowers and the Manager (the “Home Office Fee”), for providing certain administrative services to the Borrowers. The Home Office Fee will be paid monthly as part of Operating Expenses (as defined in the Indenture). See “SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS – Application of Gross Revenues” herein.

### **Exemption from Indiana Taxes**

So long as and to the extent that the Borrowers are exempt from federal income tax under Section 501(a) of the Code, they will also be exempt from Indiana adjusted gross income tax. The Borrowers each expect to receive a not-for-profit tax registration number from the Indiana Department of Revenue and a letter recognizing that it is exempt from Indiana adjusted gross income tax and that it is exempt from Indiana state gross retail sale tax and use tax on purchases of property and services which are used to carry on or to raise money to carry on its exempt purposes.

All tangible property, real or personal, in Indiana, unless expressly exempt, is required to be assessed (valued) and taxed for *ad valorem* property taxation purposes. Indiana law exempts land, buildings and personal property from taxation if it is owned, occupied and used for educational, literary, scientific, religious or charitable purposes. The exemption is a privilege which is waived if the owner of the property does not comply with certain filing and reporting requirements necessary to claim the exemption. The liability of a person for tax with respect to any item of property, as well as the item's status as taxable or exempt, is determined as of the assessment date (March 1) of the year. Accordingly, subject to the Borrowers' compliance with applicable filing and reporting requirements, all tangible property which the Borrowers own, occupy and use for educational, literary, scientific, religious or charitable purposes on any assessment date is expected to be exempt from property taxation in Indiana. The Borrowers expect that the Facilities will be exempt from property taxation. The Feasibility Study assumes such exemption but also contains a sensitivity analysis showing the effect on the Debt Service Coverage Ratio and liquidity of the Borrowers if the Borrowers are required to pay real estate taxes on the Facilities and the Sensitivity Analysis Letter recomputes such sensitivity analysis assuming the principal amount of \$11,120,000 for the Series 2005A Bonds and \$2,735,000 for the Series 2005B Bonds and an annual interest rate of 9.25% on the Series 2005A Bonds and the Series 2005B Bonds during the forecast period. See APPENDIX B—“Sensitivity Analysis Letter and Feasibility Study; Summary of Significant Forecast Assumptions and Accounting Policies; Operating Expenses.”

### **Covenant Not To Compete**

The Loan Agreement requires that no Borrower nor any affiliate of a Borrower shall build, operate, acquire or otherwise maintain any interest, directly or indirectly, in any facility providing services substantially similar to the services provided by the Facilities within a ten (10) mile radius of any of the Facilities, provided that this prohibition shall not apply if the Borrowers deliver a feasibility study prepared by a consultant not unacceptable to a Majority of Owners showing, for the first two fiscal years of operation of the proposed facility, a Debt Service

Coverage Ratio of at least 1.20 for the Facility or Facilities located within a ten mile radius of such proposed facility. The Authorized Borrower Representative shall cause the Manager to covenant in the Management Agreement to limit its activities in the manner described above.

## **Tax Covenants**

Under the Tax Agreement entered into by the Borrowers and American Eagle in connection with the issuance of the Series 2005A Bonds and the Series 2005C Bonds, the Borrowers and American Eagle will agree to comply with certain tax covenants including the covenant to lease at least 20% of the residential units at each of the Facilities financed with the Series 2005A Bonds and Series 2005C Bonds to tenants whose adjusted gross income is less than 50% of the area median income. Failure to comply with such covenants could lead to a Determination of Taxability and the acceleration of the Series 2005A Bonds and the Series 2005C Bonds. See “THE SENIOR BONDS – Acceleration” and “BONDHOLDERS RISKS – Determination of Taxability” herein.

## **THE MANAGER**

### **General**

Medical Rehabilitation Centers, Inc. (the “Manager”), is a Kentucky corporation formed in May 1992 as a successor to affiliated companies which commenced operations in 1989. The Manager has managed The Home Place and Sanders Glen since their acquisition by the Seller in December 1996 and Morning Breeze since its acquisition by the Seller in August 2003. The shareholders of the Manager are C. Lynn Redmond, Wayne S. Tush and James R. Johnson who are also shareholders of Jefferson Healthcare Services, Inc., the controlling member of the Seller. Besides the Facilities, the Manager and its affiliates currently own or manage twelve long term care facilities in Wisconsin, Indiana and Illinois.

### **Principals**

The three principals of the Manager are C. Lynn Richmond, James R. Johnson and Wayne S. Tush; brief biographies of each are set forth below:

C. Lynn Redmond, *President and Chairman of the Board*. Mr. Redmond is a resident of Lexington, Kentucky and received a Bachelor of Science degree in Business Administration from Arkansas State University in 1965, and an MBA from Murray State University in 1972. After graduation in 1972 and until 1977, Mr. Redmond worked in the personnel department of medical/surgical hospitals as a Personnel Director. In 1977, Mr. Redmond became Corporate Director for Personnel and Labor Relations for Exception, Inc., a publicly owned long-term health care company that operated nursing homes and facilities for the developmentally disabled. In 1978, Mr. Redmond became Vice President of Health Care Operations for Excepticon, Inc., and in 1982, President of Excepticon, Inc. In 1981, Excepticon, Inc. was merged into Forum Group, Inc. In 1984, Mr. Redmond became Vice President of the Long Term care Division of Forum Group, Inc., and Vice President of the Retirement Communities Division in 1987. In 1990, Mr. Richmond left Forum Group, Inc. to become President and part-owner of the Manager.

James R. Johnson, *Vice President, Treasure and Director*. Mr. Johnson is a resident of Frankfort, Kentucky. After graduation in 1973 from Kentucky State University, with a Bachelor of Science degree in Business Administration, Mr. Johnson joined Coopers & Lybrand in their Lexington, Kentucky office as a staff accountant. During his association with Coopers & Lybrand, Mr. Johnson became a Certified Public Accountant and served as senior accountant in charge of numerous audit engagements. In 1976, Mr. Johnson joined Excepticon, Inc. as corporate controller and served in that capacity until Excepticon's 1981 merger with Forum Group, Inc. Thereafter, Mr. Johnson served as controller of Forum Group's long term care division until 1985. In 1986, Mr. Johnson joined Dean, Dorton & Ford, PSC, a Lexington based public accounting firm, where he served principally as an audit manager with additional responsibilities in internal quality control in the audit and accounting areas of the firm's practice. In 1991, Mr. Johnson joined the Manager as Chief Accounting Officer and became a shareholder in the company.

Wayne S. Tush, *Vice President, Corporate Secretary and Director*. Mr. Tush is a resident of Carmel, Indiana. After graduating in 1965 from Strayer College with a degree in Business Administration, Mr. Tush joined the Washington, D.C. public accounting firm of Buchanan & Company. In 1968, Mr. Tush became a Certified Public Accountant and joined the Wilmington, Delaware office of J.K. Lasser & Company, a national accounting firm. In 1970, J. K. Lasser & Company was merged into Touche Ross, and Mr. Tush left to become corporate controller for Iron Mountain, Inc., a publicly traded food processing company in Wilmington, Delaware, where he supervised a decentralized accounting function for 30 domestic and three foreign subsidiaries. In 1975, Mr. Tush joined Retirement Living, Inc. a publicly traded health care company in Wilmington, Delaware, as Controller and Chief Financial Officer. At that company, Mr. Tush was responsible for all areas of finance, data processing, centralized general accounting and shareholder reporting. Retirement Living, Inc. was acquired by Forum Group, Inc. in 1981, and in 1983 Mr. Tush moved to Indianapolis, Indiana to serve as Vice President, Controller and Chief Accounting Officer of Forum Group, Inc. In 1992, Mr. Tush left Forum Group, Inc. to become Vice President and a shareholder of the Manager. Mr. Tush's role at the Manager includes acquisition, disposition, finance, corporate planning and strategy.

## **Employees**

As of September 1, 2005, the Manager or its affiliates employed or supervised approximately 1,700 full-time employees.

## **Management Agreement**

The Manager will manage the Facilities under the Management Agreement, to be entered into between the Borrowers and the Manager concurrently with the issuance of the Senior Bonds. The Management Agreement will be for an initial term of fifteen (15) years, commencing upon the issuance of the Senior Bonds and is subject to termination in certain circumstances. The Borrowers may retain a new Manager of the Facilities, amend the Management Agreement, or renew or extend the term of the Management Agreement in accordance with the terms of the Loan Agreement and the termination provisions of the Management Agreement. The Manager shall provide the Borrowers with executive directors, bookkeepers and program directors for each of the buildings, a director of nursing for Morning Breeze and the services of dietary, quality assurance, marketing and MIS consultants, acceptable to the Borrowers, who may be employees of the Manager. The payroll costs of any employees or consultants of the three Facilities who are employees of the Manager shall be operational expenses of the Facilities to be reimbursed to the Manager. All other staff and personnel working at each of the Facilities will be employees of the Borrower which owns that particular Facility. The Management Fee will be a fixed amount, subject to change annually on the anniversary of the Management Agreement based upon the change in the Consumer Price Index for the last month of the most recently ended fiscal year compared to the last month of the preceding fiscal year. Seventy percent (70%) of the Management Fee will be paid as an Operating Expense and thirty percent (30%), the Subordinate Management Fee, will be subordinated to principal and interest payments on the Senior Bonds, Operating Expenses, deposits to the Replacement Reserve Fund and certain other deposits. Under the Management Agreement, in the event that the Borrowers are unable to pay the Management Fees, including, without limitation, the Subordinated Management Fees at all times and in the event that the Manager is reasonably able to continue to perform its services, the Management Fees, including the Subordinated Management Fees, will be accrued and interest at a rate equal to the prime rate set forth in *The Wall Street Journal*, from time to time, will be charged to the Borrowers upon such accrued fees and shall be paid as a part of the Operating Expenses of the Borrowers. Under the Management Agreement, the failure to pay Subordinated Management Fees because of (a) insufficient revenues or (b) the failure by the Borrowers to comply with certain covenants in the Loan Agreement will not permit the Manager to terminate the Management Agreement. See "SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS – Application of Gross Revenues".

See APPENDIX G – "Proposed Form of Management Agreement" for further information about the Management Agreement.

Under the Loan Agreement, the Borrowers at all times agree to retain a competent professional management company to manage each of the Facilities or, with the consent of a Majority of the Owners of the Senior Bonds, may operate the Facilities directly; provided, however, that the Borrowers shall not enter into any Management Agreement with any Manager unless, prior thereto, it shall have delivered to the Trustee an opinion of



Bond Counsel to the effect that the execution, delivery and performance of such Management Agreement will not adversely affect the exclusion (if any) of the interest on any Series 2005 Bonds from gross income for federal income tax purposes. Under the Loan Agreement, the Borrowers covenant not to terminate, amend or renew any Management Agreement or enter into any new Management Agreement or engage a new Manager, unless such action is approved by the Owners of more than 50% of the principal amount of Senior Bonds.

### **Manager Covenant Not To Compete**

The Loan Agreement requires the Authorized Borrower Representative to cause the Manager to covenant in the Management Agreement that the Manager nor any affiliate of the Manager shall build, operate, acquire or otherwise maintain any interest, directly or indirectly, in any facility providing services substantially similar to the services provided by the Facilities within a ten (10) mile radius of any of the Facilities, provided that this prohibition shall not apply if the Manager delivers a feasibility study prepared by a consultant not unacceptable to a Majority of Owners showing, for the first two fiscal years of operation of the proposed facility, a Debt Service Coverage Ratio of at least 1.20 for the Facility or Facilities located with a ten mile radius of such proposed facility to limit its activities in the manner described above.

## **APPRAISALS**

The Borrowers have received an appraisal for each of the Facilities dated November 3, 2005 (the "Appraisals") prepared by Integra Realty Resources (the "Appraiser"). The Appraisals contain an estimation of the prospective market values of the Facilities as follows: (a) assuming the Borrowers are required to pay real estate taxes on the Facilities: the Home Place--\$2,460,000; Sanders Glen--\$7,070,000; Morning Breeze--\$9,020,000; total--\$18,550,000; and (b) assuming the Borrowers are not required to pay real estate taxes on the Facilities: The Home Place--\$3,210,000; Sanders Glen--\$8,060,000; Morning Breeze--\$9,880,000; total--\$21,150,000. All references to the Appraisals are qualified in their entirety by reference to the Appraisals, copies of which are available for review from the Borrowers and should be read in their entirety. No attempt has been made herein to summarize the Appraisals.

## **FEASIBILITY STUDY AND SENSITIVITY ANALYSIS LETTER**

Crowe, Chizek and Company, LLC, independent certified public accountants (the "Feasibility Consultant") has prepared the Feasibility Study, which is included in APPENDIX B to this Official Statement. The Feasibility Study includes the Financial Forecast of the Borrowers and the Facilities based upon assumptions of the Borrowers and the Manager, including certain assumptions as to the principal amounts and interest rates of the Senior Bonds, as of and for the two months ending December 31, 2005 and as of and for each of the years ending December 31, 2006 through December 31, 2010. In addition, the Feasibility Consultant has delivered the Sensitivity Analysis Letter recomputing the Debt Service Coverage Ratios and Days Cash on Hand assuming the principal amount of \$11,120,000 for the Series 2005A Bonds and \$2,735,000 for the Series 2005B Bonds and an annual interest rate of 9.25% on the Series 2005A Bonds and the Series 2005B Bonds during the forecast period; the Sensitivity Analysis Letter is also included in APPENDIX B. The Feasibility Study states that there will usually be differences between the financial data and actual results because events and circumstances frequently do not occur as expected and those differences may be material. No attempt has been made herein to summarize the Sensitivity Analysis Letter or the Feasibility Study. The Sensitivity Analysis Letter and the Feasibility Study, including the Financial Forecast and all notes and assumptions set forth therein, should each be read in its entirety.

## **THE SENIOR BONDS**

### **General**

The Senior Bonds will be dated the date of issuance thereof, will bear interest from such date at the rates and at the times described below, and, subject to the redemption provisions set forth below, will mature on the dates and in the amounts set forth on the cover page of this Official Statement. The Senior Bonds will be issued only as registered bonds in denominations of \$100,000 or integral multiples of \$5,000 in excess thereof. Interest on the Senior Bonds shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

### **Variable Interest Rate on the Series 2005A Bonds**

The Series 2005A Bonds will bear interest at a variable rate per annum equal to the federal funds target rate as announced by the Federal Open Market Committee of the Federal Reserve Board and published in the Money Rates Section of *The Wall Street Journal* from time to time (the “Federal Funds Rate”) plus three and twenty-five hundredths percent (3.25%) (the “Applicable Interest Rate”). Interest will be payable on the Series 2005A Bonds on the first day of each month, commencing January 1, 2006 (each an “Interest Payment Date” for the Series 2005A Bonds). The holders of the Series 2005A Bonds will not have any right to put the Series 2005A Bonds for redemption in connection with the resetting of the interest rate on the Series 2005A Bonds.

### **Fixed Interest Rate on the Series 2005B Bonds.**

The Series 2005B Bonds will bear interest at the fixed rate per annum set forth on the cover page hereof, payable semiannually on each January 1 and July 1, commencing July 1, 2006 (each an “Interest Payment Date” for the Series 2005B Bonds).

### **Book-Entry Only System**

The Depository Trust Company, New York, New York (“DTC”), will initially act as securities depository for the Senior Bonds. DTC and any successor or substitute securities depository are sometimes referred to herein as the “Securities Depository.” The Senior Bonds will be issued as fully-registered securities registered in the name of Cede & Co., as nominee for DTC. Cede & Co. and any future nominee of a Securities Depository are sometimes herein referred to as the “Securities Depository Nominee.” One fully-registered Senior 2005 Bond certificate will be issued for each series of the Senior Bonds in the aggregate principal amount of such series of the Senior Bonds of each maturity, and will be deposited with DTC. So long as Cede & Co., as nominee of DTC, is the registered owner of the Bonds, references herein to the Holders or Owners of the Bonds or registered owners of the Bonds shall mean Cede & Co. and shall not mean the beneficial owners of the Bonds.

The information under this caption concerning DTC and DTC's book-entry system has been obtained from sources believed to be reliable, but neither the Authority nor the Underwriter takes any responsibility for the accuracy or completeness thereof.

DTC is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds securities that its participants (“Participants”) deposit with DTC. DTC also facilitates the settlement among Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Participants’ accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is owned by a number of its Direct Participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc., and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as securities brokers and dealers, banks, and trust companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). The Rules applicable to DTC and its Participants are on file with the Securities and Exchange Commission.

Purchases of Senior Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for such Senior Bonds on DTC’s records. The ownership interest of each actual purchaser of each Senior 2005 Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Senior Bonds are to be accomplished by entries made on the books of Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates

representing their ownership interests in the Senior Bonds, except in the event that use of the book-entry system for the Senior Bonds is discontinued.

To facilitate subsequent transfers, all Senior Bonds deposited by Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. The deposit of Senior Bonds with DTC and their registration in the name of Cede & Co. effect no change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Senior Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Senior Bonds are credited, which may or may not be the Beneficial Owners. The Participants will remain responsible for keeping account of their holdings on behalf of their customers.

The Authority and the Trustee will recognize DTC or the Securities Depository Nominee as the registered owner of the Senior Bonds for all purposes, including notices and voting. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners of the Senior Bonds will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to Cede & Co. If less than all of the Senior Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. will consent or vote with respect to the Senior Bonds. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Senior Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Senior Bonds will be made to DTC. DTC's practice is to credit Direct Participants' accounts on the payable date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payment on the payable date. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or the Authority, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to DTC is the responsibility of the Authority or the Trustee, disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Senior Bonds at any time by giving reasonable notice to the Authority or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Senior 2005 Bond certificates are required pursuant to the Resolution to be printed and delivered. The Authority may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Senior 2005 Bond certificates will be printed and delivered.

**The above information concerning DTC and DTC's book-entry system has been obtained from sources that the Authority and the Underwriter believe to be reliable, but neither the Authority nor the Underwriter takes responsibility for the accuracy thereof. The Beneficial Owners should confirm the foregoing information with DTC or the DTC Participants.**

When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference shall only relate to those permitted to act (by statute, regulation or otherwise) on behalf of such Beneficial Owners for such purposes. When the Trustee is required to give notices to the registered owners of the Senior Bonds, the Trustee shall send such notices to DTC as the registered owner.

NEITHER THE AUTHORITY, THE BORROWERS NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DTC PARTICIPANTS, TO INDIRECT PARTICIPANTS, OR TO ANY BENEFICIAL OWNER WITH RESPECT TO (I) THE ACCURACY OF ANY RECORDS MAINTAINED

BY DTC, ANY DTC PARTICIPANT OR ANY INDIRECT PARTICIPANT; (II) ANY NOTICE THAT IS PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE SENIOR BONDS UNDER THE INDENTURE; (III) THE SELECTION BY DTC OR ANY DTC PARTICIPANT OR INDIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF THE SENIOR BONDS; (IV) THE PAYMENT BY DTC OR ANY DTC PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR REDEMPTION PREMIUM, IF ANY, OR INTEREST DUE WITH RESPECT TO THE SENIOR BONDS; (V) ANY CONSENT GIVEN OR OTHER ACTION DUE WITH RESPECT TO THE SENIOR BONDS; (VI) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF SENIOR BONDS; OR (VII) ANY OTHER MATTER PERTAINING TO DTC.

### **Redemption Provisions**

Optional Redemption. The Senior Bonds may be redeemed at the option of the Authority, at the written direction of the Authorized Borrower Representative (upon the simultaneous prepayment of a like aggregate principal amount of the respective Series 2005A Note and the Series 2005B Note), in whole or in part, at any time upon payment of 100% of the principal amount to be redeemed indicated below, together with interest accrued thereon to the date fixed for redemption

Extraordinary Redemption. The Series 2005 Bonds are subject to redemption as a whole or in part at any time, from and to the extent of the property or title insurance proceeds, proceeds received as a result of damage, destruction, condemnation or taking under threat of condemnation with respect to the Facilities, and excess proceeds from capital improvements, which are directed to be applied to the redemption of Senior Bonds pursuant to Section 6.4(c) of the Indenture and the redemption of the Series 2005 Bonds pursuant to the Indenture. Each such redemption shall be effected at a redemption price of 100% of the principal amount of the Series 2005 Bonds to be redeemed together with accrued interest to the redemption date. The Series 2005A Bonds and the Series 2005B Bonds shall be redeemed first, and the Bonds of such series shall be selected for redemption in such order of maturity as shall be designated by the Authorized Borrower Representative and within each such maturity as selected by the Trustee by lot. After all of the Series 2005A Bonds and the Series 2005B Bonds have been redeemed, any remaining funds shall be used to redeem the Series 2005C Bonds, and such Bonds shall be selected for redemption in such order of maturity as shall be designated by the Authorized Borrower Representative and within each such maturity as selected by the Trustee by lot.

Sinking Fund Redemption. The Series 2005A Bonds and the Series 2005B Bonds are subject to Sinking Fund Redemption prior to maturity in part, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date, without premium, on the Redemption Dates specified below in the respective principal amounts as follows

Series 2005A Bonds

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
January 1, 2007	\$ 5,000	January 1, 2022	\$ 295,000
January 1, 2008	85,000	January 1, 2023	325,000
January 1, 2009	95,000	January 1, 2024	350,000
January 1, 2010	105,000	January 1, 2025	385,000
January 1, 2011	110,000	January 1, 2026	420,000
January 1, 2012	120,000	January 1, 2027	460,000
January 1, 2013	135,000	January 1, 2028	500,000
January 1, 2014	145,000	January 1, 2029	550,000
January 1, 2015	160,000	January 1, 2030	600,000
January 1, 2016	175,000	January 1, 2031	655,000
January 1, 2017	190,000	January 1, 2032	715,000
January 1, 2018	210,000	January 1, 2033	780,000
January 1, 2019	225,000	January 1, 2034	855,000
January 1, 2020	250,000	January 1, 2035	930,000
January 1, 2021	270,000	January 1, 2036*	1,020,000

\* Stated Maturity.

Series 2005B Bonds

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
January 1, 2007	\$ 5,000	January 1, 2022	\$ 70,000
January 1, 2008	20,000	January 1, 2023	80,000
January 1, 2009	25,000	January 1, 2024	85,000
January 1, 2010	25,000	January 1, 2025	95,000
January 1, 2011	30,000	January 1, 2026	105,000
January 1, 2012	30,000	January 1, 2027	115,000
January 1, 2013	35,000	January 1, 2028	125,000
January 1, 2014	35,000	January 1, 2029	135,000
January 1, 2015	40,000	January 1, 2030	145,000
January 1, 2016	45,000	January 1, 2031	160,000
January 1, 2017	45,000	January 1, 2032	175,000
January 1, 2018	50,000	January 1, 2033	190,000
January 1, 2019	55,000	January 1, 2034	210,000
January 1, 2020	60,000	January 1, 2035	230,000
January 1, 2021	65,000	January 1, 2036*	250,000

\* Stated Maturity.

Notice of Redemption. At least 30 days but not more than 60 days before each redemption date, the Trustee will mail a notice of redemption by first class mail to each Registered Owner at the Registered Owner's address as shown on the Bond Register. Failure to give any required notice of redemption to any Owner as to any particular Senior 2005 Bond will not affect the validity of the call for redemption of any Senior 2005 Bond in respect of which no failure occurs. Any notice mailed as provided in this paragraph will be conclusively presumed to have been given whether or not actually received by any Owner. Any defect in such notice shall not affect the validity of the proceedings for the redemption of such Bonds with respect to which proper mailing was effected.

If, at the time of mailing of the notice of redemption, there shall not have been deposited with the Trustee moneys sufficient to redeem all the Senior Bonds called for redemption, such notice may state that it is conditional, that is, subject to the deposit of the redemption moneys with the Trustee not later than the opening of business on the redemption date, and such notice shall be of no effect unless such moneys are so deposited.

When notice of redemption is required and given, Senior Bonds called for redemption become due and payable on the redemption date at the applicable redemption price. In such case, when funds are deposited with the Trustee sufficient for redemption, interest on the Senior Bonds to be redeemed ceases to accrue as of the date of redemption.

In the event of a redemption of less than all the Outstanding Bonds of the same Series, (i) the particular Bonds to be redeemed shall be selected for redemption in such order of maturity dates established for such series of Bonds as shall be designated by the Borrowers (in allotments of \$5,000 or any multiples thereof), and (ii) if less than all of the Bonds of any maturity are to be redeemed, the Trustee shall select the Bonds of such maturity to be redeemed by lot, and (iii) in the case of a partial redemption of Bonds which are subject to Sinking Fund Redemption (other than by reason of such Sinking Fund Redemption), the amount of future Sinking Fund Redemptions will be reduced to reflect such partial redemption in such order of Sinking Fund Redemption obligations as shall be designated by the Authorized Borrower Representative; provided that the Series 2005 Bonds shall not be redeemed in part if an Event of Default has occurred and is continuing. Upon surrender of any Bond redeemed in part, the Trustee will authenticate for the Registered Owner a new Bond or Bonds equal in principal amount to the unredeemed portion of the Bond surrendered.

#### **Acceleration**

Following the occurrence of an Event of Default under the Indenture (including a Determination of Taxability), the Trustee may, and upon the request of the Owners of 25% in aggregate principal amount of Senior Bonds Outstanding shall, declare the principal of the Senior Bonds Outstanding, together with interest accrued thereon and the Acceleration Premium (as defined herein), if any, to be immediately due and payable. See APPENDIX E - "Definitions of Certain Terms and Summaries of Principal Documents; Summary of Certain Provisions of Trust Indenture; Events of Default and Remedies; Events of Default; Acceleration and Annulment Thereof." "Acceleration Premium" is defined under the Indenture as (i) with respect to any Series 2005 Bonds, the then applicable Optional Redemption premium for the applicable series of Series 2005 Bonds, or if such Bonds are not then subject to Optional Redemption, the highest Optional Redemption premium applicable at any time with respect to such series of Series 2005 Bonds; provided that in the event that the acceleration results from a Determination of Taxability, the premium will be (a) five percent (5%) of the principal amount of the Series 2005A Bonds, (b) zero percent (0.0%) of the principal amount of the Series 2005B Bonds, and (c) five percent (5%) of the principal amount of the Series 2005C Bonds, and (ii) with respect to any Additional Bonds, the amount specified in the Supplemental Indenture authorizing the issuance thereof.

"Determination of Taxability" means a determination that the interest income on any of the Series 2005A Bonds or Subordinate Bonds does not qualify as excludable from gross income of the Owners thereof ("exempt interest") for any reason, which determination shall be deemed to have been made upon the first to occur of any of the following: (a) the date on which the Trustee is notified that an Opinion of Bond Counsel is unable to be delivered to the effect that the interest on the Series 2005A Bonds or Subordinate Bonds qualifies as such exempt interest; provided however, that the Borrowers shall have 60 days from the delivery of such notice to provide the Trustee with an Opinion of Bond Counsel to the effect that the interest on the Series 2005A Bonds and Subordinate Bonds qualifies as such exempt interest; (b) the date on which any change in law or regulation becomes effective or on which the Internal Revenue Service issues any public or private ruling, technical advice memorandum or any other written communication or on which there shall occur a ruling or decision of a court of competent jurisdiction with or to the effect that the interest income on any of the Series 2005A Bonds or Subordinate Bonds does not qualify as such exempt interest; or (c) the date on which the Borrowers shall receive notice from the Trustee in writing that the Trustee has been notified by the Internal Revenue Service, or has been advised by the Authority, the Borrowers or any Owner or former Owner that the Internal Revenue Service has issued a thirty day letter or other notice which asserts that the interest on any of the Series 2005A Bonds or Subordinate Bonds does not qualify as such exempt interest.

Nothing in this definition of “Determination of Taxability” shall be construed to mean that the Trustee or any Owner of any Bond shall have any obligation to contest or appeal any assertion or decision that any interest payable under the Bonds is subject to taxation.

### **Payment of Interest and Principal; Record Dates**

Interest on the Senior Bonds will be payable to the persons in whose names the Senior Bonds are registered on the Bond Register maintained by the Trustee at the close of business on the fifteenth (15th) day (“Record Date”) of the month immediately preceding the relevant Interest Payment Date notwithstanding the cancellation of such Senior 2005 Bond upon any transfer or exchange thereof subsequent to such Record Date and prior to such Interest Payment Date; provided, however, that if the Authority shall default in the payment of the interest due on an Interest Payment Date, such defaulted interest shall be paid to the persons in whose names the Senior Bonds are registered at the close of business on a date (the “Special Record Date”) established by the Trustee, notice of which shall have been mailed to all Owners not less than (fifteen) 15 days prior to such date, pursuant to the Indenture. Interest on each Senior 2005 Bond will be paid on each Interest Payment Date, by check mailed to the address shown on the Bond Register provided, however that interest on any Senior 2005 Bond registered in the name of The Depository Trust Company or its nominee Cede & Co. (“DTC”) or, upon written request given to the Trustee prior to a Record Date, of any Owner of \$1,000,000 or more in aggregate principal amount of Senior Bonds, will be paid by wire transfer to an account in a member bank of the Federal Reserve System designated by DTC or such Owner.

The principal and redemption premium, if any, on the Senior Bonds shall be payable upon presentation and surrender of such Senior Bonds at the principal corporate trust office of the Trustee.

### **Registration and Transfer or Exchange of Senior Bonds**

The Senior Bonds may be transferred or exchanged for an equal aggregate principal amount of Senior Bonds of the same series in other authorized denominations upon surrender of such Senior Bonds at the principal corporate trust office of the Trustee, duly endorsed for transfer or accompanied by an assignment executed by the Registered Owner or the Registered Owner’s duly authorized attorney or legal representative.

The Trustee will not be required to transfer or exchange any Series 2005 Bond during the period beginning 15 days before the mailing of notice calling the Series 2005 Bond or any portion of the bond for redemption and ending on the redemption date.

Registrations, transfers and exchanges of Senior Bonds shall be without charge to the Registered Owner, provided that the Registered Owner shall pay any taxes or other governmental charges imposed on any such registration, transfer or exchange.

### **Beneficial Owners**

Notices and other communications required by the Indenture to be given to the Owners of Senior Bonds shall be given to the Beneficial Owners as well as the Registered Owners, and (except in the case of transfers of Senior Bonds) all actions, consents and votes by Owners of Senior Bonds (including requests for payment by wire transfer) may be taken by Beneficial Owners as well as by Registered Owners. If there is a conflict between any request, action, consent or vote by the Registered Owner and any Beneficial Owner of the same Bond, the action, consent or vote of the Registered Owner shall control. The Trustee shall maintain a record of the Beneficial Owners of the Senior Bonds. The Trustee’s record of such Beneficial Owners shall be based exclusively upon certificates executed by the record and Beneficial Owners of the Senior Bonds, and in the absence of such a certificate the Trustee shall treat the Registered Owner as the Beneficial Owner.

As used herein, the term “Owners” means both the Registered Owners and Beneficial Owners of the Senior Bonds.

For the purpose of determining whether an Owner owns a particular principal amount of the Senior Bonds for giving approvals or consents or requesting wire transfers, the ownership of Senior Bonds by Owners which are

affiliates will be aggregated and the amount owned shall be based upon the original principal amount of Senior Bonds owned without regard to redemptions. For these purposes an Owner is an affiliate of another if the first controls the second, is controlled by the second or is under common control with the second or if both Owners share a common investment advisor (or affiliated investment advisors). The Trustee will be entitled to rely upon a certificate of any Owner with respect to such matters.

#### **Actions Not Unacceptable to a Majority of the Owners of the Senior Bonds**

Under the Indenture and the Loan Agreement, the Borrowers and the Trustee may take certain actions provided such actions are not unacceptable to a Majority of Owners of the Senior Bonds. Among the actions permitted if not unacceptable to a Majority of the Senior Bonds are the appointment of a Consultant, disbursement of amounts from the Project Fund, Operating Reserve Fund or Replacement Reserve Fund if an Event of Default has occurred and is continuing, and approving a successor Trustee. The Trustee shall provide written notice to the Owners of the Senior Bonds by first class mail at least 30 days in advance of any action which cannot be taken if a Majority of Owners objects to such action. Such notice shall be deemed received 5 days following mailing. As defined in the Indenture, the phrase “not unacceptable to a Majority of the Owners of the Senior Bonds” means that a Majority of the Owners of the Senior Bonds have not filed a written objection to a proposed action within 30 days of receiving from the Trustee written notice describing such action in reasonable detail. Any action that may be taken if a Majority of the Owners of the Senior Bonds does not object may also be taken at the affirmative direction of a Majority of the Owners of the Senior Bonds. See APPENDIX E – “Definitions of Certain Terms and Summaries of Principal Documents.”

#### **SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS**

The following summary of the Indenture, the Loan Agreement and the Mortgages does not purport to be comprehensive or definitive and reference is made to APPENDIX E hereto and to each document for a more complete summary of the details and provisions of each document. See APPENDIX E – “Definitions of Certain Terms and Summaries of Principal Documents” hereto.

#### **Limited Obligations of Authority**

The principal of, premium, if any, and interest on the Senior Bonds are payable solely from certain amounts to be paid by the Borrowers to the Trustee under the Loan Agreement, the funds held under the Indenture (except the funds held in the Rebate Fund) and the proceeds of the Trustee’s exercise of certain remedies under the Indenture, the Loan Agreement and the Mortgages.

THE SENIOR BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY AND WILL BE PAYABLE SOLELY FROM AND SECURED EXCLUSIVELY BY PAYMENTS, REVENUES AND OTHER AMOUNTS PLEDGED THERETO PURSUANT TO THE INDENTURE. THE SENIOR BONDS DO NOT REPRESENT OR CONSTITUTE A DEBT OF THE AUTHORITY OR THE STATE WITHIN THE MEANING OF THE PROVISIONS OF THE CONSTITUTION OR STATUTES OF THE STATE OR A PLEDGE OF THE FAITH AND CREDIT OF THE AUTHORITY OR THE STATE, AND THE SENIOR BONDS DO NOT GRANT TO THE OWNERS OR HOLDERS THEREOF ANY RIGHT TO HAVE THE AUTHORITY OR THE STATE LEVY ANY TAXES OR APPROPRIATE FUNDS FOR THE PAYMENT OF THE PRINCIPAL THEREOF AND INTEREST THEREON. THE AUTHORITY HAS NO TAXING POWER.

The Senior Bonds do not now and shall never constitute a charge against the general credit of the Authority. No Owner of any Senior Bonds shall have the right to compel any exercise of the taxing power of the State of Indiana or any political subdivision thereof to pay the principal of, premium, if any, or interest on the Senior Bonds, and the Senior Bonds do not constitute an indebtedness or a loan of credit within the meaning of any constitutional or statutory provision.

No recourse shall be had for any claim based on the Senior Bonds or the Indenture against any past, present or future member, officer, employee or agent as such, of the Authority or of any predecessor or successor corporation, either directly or through the Authority or otherwise, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise.



The obligations of the Borrowers under the Loan Agreement and the Mortgages are general obligations of the Borrowers, fully recourse to the Borrowers; however, the Borrowers do not expect to have any assets other than their interests in the Facilities and the revenues derived therefrom and any donations they receives. The obligations of the Borrowers under the Loan Agreement are joint and several obligations of the Borrowers. The Borrowers have not conducted any operations to date, have no appreciable assets and will be dependent upon the successful operation of the Facilities to meet their obligations under the Loan Agreement and the Mortgages. The Borrowers have covenanted under the Loan Agreement that they shall not engage in any business other than the operations of the Facilities and activities associated with such operations. The obligations of the Borrowers under the Loan Agreement and the Mortgages are without recourse to any of the officers, directors, agents or employees of the Borrowers or the Manager, respectively, and none of the affiliates of the Borrowers nor the Manager nor any of the officers, directors, agents or employees thereof, respectively, is obligated to contribute or advance any moneys toward the operation of the Facilities or the payment of the Borrowers' obligations under the Loan Agreement or the Mortgages.

### **Pledge and Assignment of Trust Estate**

Pursuant to the Indenture, the Authority will assign, transfer and pledge to the Trustee, for the equal and proportionate benefit, security and protection of the Owners, from time to time, of the Senior Bonds and all Additional Bonds issued under the Indenture, except as otherwise provided in the Indenture, all right, title and interest of the Authority in and to the Trust Estate which consists of: (a) the Loan Agreement, including but not limited to, the right to collect or make a claim for all revenues and receipts payable or receivable thereunder, the exclusive right to bring action proceedings thereunder or for the enforcement thereof, and the exclusive right to do any and all things which the Authority is entitled to do thereunder; (b) the Pledged Revenues, which means the Gross Revenues transferred to and received by the Trustee and any and all amounts payable to the Authority under the Loan Agreement; (c) all moneys and investments in the funds and accounts created under the Indenture (including all income and receipts earned on the funds and accounts held by the Trustee under the Indenture except as otherwise set forth therein) other than the Rebate Fund; (d) all other property rights of any kind assigned, transferred or pledged to the Trustee as additional security by the Borrowers; and (e) any and all proceeds (including real property) acquired by the Trustee as a result of its exercise of any remedies under the Mortgages; under and subject in each case to the Authority's Reserved Rights as set forth in the Indenture, which Reserved Rights include the payment of the Authority's fees and expenses, the indemnification of the Authority by the Borrowers under the Loan Agreement and the rights of the Authority to recover payment of attorney's fees and expenses in the event of a default by the Borrowers under the Loan Agreement.

### **Loan Agreement**

Under the Loan Agreement between the Borrowers and the Authority, the Borrowers will be absolutely and unconditionally obligated, on a joint and several basis, to make monthly payments to the Trustee, as the assignee of the Authority, sufficient to provide for the payment of the principal of, and interest and premium, if any, on the Senior Bonds when due, and to provide for deposits to the Bond Fund, the Operating Reserve Fund and the Replacement Reserve Fund, if required, at the times and in the amounts required by the Indenture and the Loan Agreement. If a monthly payment to the Bond Fund is not paid when due, such non-payment will not be an Event of Default so long as moneys are available in the Operating Reserve Fund, under the Line of Credit, or in the Replacement Reserve Fund to provide for such payment. Deposits to the Operating Reserve Fund and Replacement Reserve Fund are required to be made only to the extent of Gross Revenues available.

### **Mortgages and Security Agreements**

Under each of the Mortgages, as security for the Borrowers' obligations under the Loan Agreement and the Mortgages, each of the Borrowers have agreed to grant to the Trustee a first mortgage lien on and security interest in all Gross Revenues, as received, with the Trustee in the Revenue Fund established under the Indenture and all real and personal property comprising the Facilities, including, among other things, the Borrowers' interest in the land, all improvements thereon and all fixtures and personalty included therein. As defined in the Indenture and the Mortgages, "Gross Revenues" means all receipts, revenues, income (including investment income) and other moneys received by or on behalf of the Borrowers derived from the operation or ownership of the Facilities,

including, without limitation, fees paid or payable by or on behalf of patients, any insurance proceeds and condemnation awards, and all rights to receive the same whether in the form of general intangibles, contract rights, chattel paper or instruments. Under the Indenture, the Authority will assign to the Trustee all of the Authority's right, title, and interest in the Loan Agreement (except for the Reserved Rights). The Borrowers will assign to the Trustee, as additional collateral for its obligations under the Loan Agreement, all of the Borrowers' right, title and interest in the Management Agreement and the Initial Interest Rate Cap and any Replacement Interest Rate Cap. See APPENDIX E – "Definitions of Certain Terms and Summaries of Principal Documents" for a summary of the Mortgages. Under the Loan Agreement, the Borrowers may grant to the holders of Short Term Indebtedness incurred for working capital purposes a lien on the Borrowers' accounts receivable which is superior to the lien granted to the Trustee under the Mortgages. See APPENDIX E – "Definitions of Certain Terms and Summaries of Principal Documents; Summary of Certain Provisions of Loan Agreement; Short Term Indebtedness" for further information on such indebtedness. In addition, in the event the Borrowers elect to refinance the Senior Bonds through a Senior Bond Refinancing Transaction instead of obtaining a replacement interest rate cap agreement during the 10 year period following the issuance of the Series 2005A Bonds, such Senior Bond Refinancing Transaction may be made on a basis superior to the Series 2005C Bonds. See, "SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS – Additional Indebtedness – Senior Bond Refinancing Transaction".

The Trustee's security interest in the Borrowers' present and future rights in and to the Gross Revenues and the other collateral pledged under the Mortgages, including Gross Revenues from time to time on deposit in the funds and accounts created by the Indenture, as assigned to the Trustee, may be limited by, among other things: (a) any statutory liens or rights arising in favor of the Authority and the Trustee by the operation of the Act; (b) other statutory liens; (c) rights arising in favor of the United States of America or any agency thereof; (d) prohibitions against assignment contained in any state or Federal statutes, including those governing Medicare and Medicaid; (e) constructive trusts, equitable liens or other rights impressed or conferred by any state or Federal court in the exercise of its equitable powers; (f) rights of third parties in any Gross Revenues, including Gross Revenues converted to cash, not in the possession of the Trustee; (g) the requirement that appropriate continuation statements be filed in accordance with the Uniform Commercial Code as enacted in the State of Indiana (the "UCC") as from time to time in effect; (h) the superior lien on the Borrowers' accounts receivable which may be granted to secure Short Term Indebtedness for working capital purposes incurred as permitted by the Loan Agreement; and (i) the superior liens granted to secure any Senior Bond Refinancing Transaction.

Appropriate financing statements will be duly executed and filed as required by the UCC, in order to perfect the security interest in the Borrowers' Gross Revenues and the other collateral pledged under the Mortgages to the extent possible by such filing. Generally, perfection may be accomplished by the filing of financing statements with respect to that collateral which constitutes machinery, equipment and furnishings, as well as those Gross Revenues which constitute accounts or general intangibles under the UCC. A security interest in cash can be perfected only by possession. Accordingly, a security interest in Gross Revenues which constitute cash is not, and cannot be, perfected until such time as such cash is held by the Trustee. Continuation statements with respect to such financing statements must be filed within the period required by the UCC in order to continue perfection of such security interest.

### **Debt Service Coverage**

The Loan Agreement requires the Borrowers to establish and charge such rents, fees and other charges relating to the Facilities and to restrict operating and maintenance expenses relating to the Facilities as is necessary to achieve a Debt Service Coverage Ratio as of each Annual Evaluation Date, commencing December 31, 2006, and as of each Quarterly Evaluation Date, commencing March 31, 2006, of at least 1.15 (the "Debt Service Coverage Covenant").

"Debt Service Coverage Ratio" as defined in the Loan Agreement means: (a) as of any Annual Evaluation Date, the ratio of Cash Available for Debt Service (as defined herein) for the Fiscal Year then ended to the sum of (i) Debt Service Requirements on the Series 2005A Bonds for the Fiscal Year in question, plus (ii) the Maximum Debt Service Requirements (as defined herein) for all Long Term Indebtedness (other than the Series 2005A Bonds, the Subordinate Bonds and the Line of Credit) for such Fiscal Year; and (b) as of any Quarterly Evaluation Date, the ratio of Cash Available for Debt Service for the fiscal quarter then ended to the sum of (i) Debt Service Requirements on the Series 2005A Bonds for the quarter in question, plus (ii) 25% of the Maximum Debt Service

Requirements for all Long Term Indebtedness (other than the Series 2005A Bonds, the Subordinate Bonds and the Line of Credit) for the applicable Fiscal Year outstanding as of the Quarterly Evaluation Date.

“Cash Available for Debt Service” as defined in the Loan Agreement means, with respect to a particular period, the following (all determined in accordance with GAAP): (a) Net Revenues for such period, less (b) all Operating Expenses for such period, plus (c) to the extent included in Operating Expenses, expenses incurred or recognized during such period in respect of (i) the Debt Service Requirements on all Long Term Indebtedness, (ii) the amortization of financing charges on all Long Term Indebtedness, (iii) the amortization of acquisition costs attributable to the acquisition of the Facilities, (iv) depreciation attributable to the Facilities and (v) Subordinated Management Fees.

“Debt Service Requirements” as defined in the Indenture means with reference to specified indebtedness for a specified period of time the sum of (i) interest payable on such indebtedness during the period except interest to be paid from the proceeds of such indebtedness and (ii) the total amount of the principal payable on such indebtedness of the Borrowers, or for which provision for payment must be made during such period, whether at maturity or upon mandatory redemption thereof.

“Maximum Debt Service Requirements” as defined in the Indenture means, at the time of calculation, the greatest amount of Debt Service Requirements on the Indebtedness in question for the current Fiscal Year or any future Fiscal Year.

### **Liquidity Covenant**

The Borrowers are required under the Loan Agreement to establish and maintain a minimum balance of cash and cash equivalents in the Facilities bank operating accounts and the Operating Reserve Fund, plus undrawn amounts under the Line of Credit as of each Quarterly Evaluation Date, commencing with the December 31, 2005 Quarterly Evaluation Date, equal to the number of Days Cash-on-Hand (as hereafter defined) specified below (“Liquidity Covenant”):

<b><u>Quarterly Evaluation Date</u></b>	<b><u>Days Cash-on-Hand</u></b>
December 31, 2005	15
March 31, 2006	15
June 30, 2006	17.5
September 30, 2006	17.5
December 31, 2006	20
March 31, 2007	20
June 30, 2007	22.5
September 30, 2007	22.5
December 31, 2007	25
March 31, 2008	25
June 30, 2008	27.5
September 30, 2008	27.5
December 31, 2008 and each Quarterly Evaluation Date thereafter	30

“Days Cash-on-Hand” is defined as the number determined as of each Quarterly Evaluation Date by (A) multiplying (i) the number of days in the fiscal quarter by (ii) the sum of the amounts in the Facilities operating bank accounts and the Operating Reserve Fund consisting of cash and Permitted Investments as of such Quarterly Evaluation Date (determined by reference to the Borrowers’ financial statements for each such date prepared in accordance with the Loan Agreement) and amounts available to be drawn on the Line of Credit, and (B) dividing the amount determined in clause (A) by an amount equal to the total Operating Expenses of the Borrowers for the fiscal quarter ending on such Quarterly Evaluation Date, plus one fourth of the amount of principal payable on any Long Term Indebtedness (other than the Subordinate Bonds and the Line of Credit) in the related fiscal year, and less any bad debts to the extent included in Operating Expenses and all depreciation and amortization for such fiscal quarter.

### **Maximum Trade Payable Levels**

As of each indicated Quarterly Evaluation Date commencing December 31, 2005, the Borrowers have covenanted to not permit their trade payable accounts to exceed the Maximum Trade Payable Levels, defined in the Loan Agreement as 60 days as to 90% of the outstanding amount of trade payables and 90 days as to the remaining 10% of outstanding trade payables (the "Trade Payables Covenant").

### **Remedies Upon Failure to Comply with Operating Covenants**

The Debt Service Coverage Covenant, the Liquidity Covenant and the Trade Payables Covenant required by the Loan Agreement described above are herein collectively referred to as the "Financial Covenants" or the "Operating Covenants."

If the Borrowers shall (i) fail to comply with the Quarterly Debt Service Coverage Ratio or the Quarterly Liquidity Covenant for one quarter, or (ii) shall fail to comply with the Annual Debt Service Coverage Ratio or the Trades Payable Covenant for two consecutive quarters, the Owners of a Majority of the Senior Bonds shall have the right to require the Borrowers to transfer and convey the Facilities to entities approved by the Owners of a Majority of the Senior Bonds upon such terms and conditions as are satisfactory to the Owners of a Majority of the Senior Bonds, provided, however that any such transfer shall be at a purchase price not less than the fair market value of the Facilities as shown in an appraisal acceptable to the Owners of a Majority of the Senior Bonds.

If the Borrowers shall fail to comply with the Quarterly Debt Service Coverage Ratio, the Liquidity Covenant or the Trades Payable Test for two consecutive quarters, the Owners of a Majority of the Senior Bonds shall have the right to replace the Manager.

If the Borrowers shall fail to comply with the Quarterly Debt Service Coverage Ratio, the Liquidity Covenant or the Trades Payable Test for one quarter or the Annual Debt Service Coverage Ratio, the Owners of a Majority of the Senior Bonds shall have the right to direct the Borrowers to retain a Consultant to provide a report recommending what actions the Borrowers should take in order to increase revenues and decrease expenses in order to comply with the Financial Covenants and the Borrowers shall implement such recommendations.

Failure to comply with the Quarterly Debt Service Coverage Ratio, the Liquidity Covenant or the Trades Payable Test for two consecutive quarters or the Annual Debt Service Coverage Ratio shall be an Event of Default under the Loan Agreement.

### **Application of Gross Revenues**

The Borrowers are required under the Indenture and Loan Agreement to transfer, or cause the Manager to transfer, all of the Gross Revenues of the Borrowers to the Trustee weekly for deposit in the Revenue Fund established by the Authority with the Trustee under the Indenture except for an amount not to exceed, in the aggregate, \$30,000, which will be held by the Manager in one or more operating accounts established by the Manager for the Facilities. There shall also be deposited into the Revenue Fund any other money so directed by the Indenture and any other moneys of the Borrowers or the Authority which they may in their discretion determine to so apply unless required to be otherwise applied by the Indenture.

"Operating Expenses" as defined in the Loan Agreement means all operating expenses of the Borrowers, determined in conformity with GAAP consistently applied, including without limitation, debt service payments on Short-Term Indebtedness incurred for working capital purposes as permitted under the Loan Agreement, Management Fees and any interest due on accrued Management Fees, including Subordinate Management Fees, any Home Office Fees paid to American Eagle and any fees to be paid to officers or directors of the Governing Body of any Borrower in connection with the respective duties related to the Facilities, or any consulting fees incurred by a Borrower in connection with the Facilities.

The Trustee shall make the following transfers of moneys on deposit in the Revenue Fund in the following order of priority:

(1) first, on any date on which any of the Borrowers is required to pay any Rebate Amount to the United States Treasury, a transfer to the Rebate Fund equal to the amount necessary to be paid to the United States Treasury;

(2) second, monthly or as needed, (a) to the Taxes and Insurance Account, an amount equal to one-twelfth of the amounts set forth in the Operating Budget for the payment of taxes and insurance for each Facility, and then (b) upon request, transfers to one or more operating accounts for the Facilities in the amounts which are estimated by the Authorized Borrower Representative or the Manager on behalf of the Borrowers to be required to pay all Operating Expenses (which include Home Office Fees and Management Fees and any interest due on accrued Management Fees, including accrued Subordinate Management Fees; but excluding the Subordinated Management Fee and excluding depreciation, amortization and bad debt expense and payments otherwise provided for under clauses (3) through (12) below) for such month; all as set forth a request included in a Certificate of the Borrowers or the Manager (which Certificate shall include a comparison of such Operating Expenses against the then current Operating Budget provided to the Trustee);

(3) third, by the last Business Day of each month (the "Transfer Date"), to the 2005A Interest Subaccount and the Series 2005B Interest Subaccount of the Interest Account of the Bond Fund, the amounts necessary to accumulate in equal monthly installments by each Interest Payment Date in each Interest Subaccount the interest on the related series of Senior Bonds due on such Interest Payment Date, taking into account (i) the amount of any investment earnings credited to such Interest Account by the Trustee in the previous month, and (ii) any credit granted pursuant to the Indenture, provided, however, that to the extent available, each transfer made on the Transfer Date immediately prior to the month in which occurs each Interest Payment Date shall be in an amount sufficient to provide the balance of the interest on the Senior Bonds due on such Interest Payment Date; and provided further that, in the event that there are insufficient Gross Revenues at any time to make the monthly transfers required pursuant to this clause (3), then (x) such transfers shall be made to the 2005A Interest Subaccount and the Series 2005B Interest Subaccount of the Interest Account equally and ratably (based on the amounts due to be deposited in such Interest Subaccounts such month and to make up any deficiency in transfers into such Interest Subaccounts in prior months) and (y) an amount equal to the amount of such deficiency shall be transferred to the Bond Fund from the following funds and in the following order: (i) the Operating Reserve Fund; (ii) the Replacement Reserve Fund; and (iii) the Line of Credit;

(4) fourth, by each Transfer Date, commencing in January 2006, to the Principal Account of the Bond Fund, the amount necessary to accumulate in equal monthly installments by each Principal Payment Date the principal due on all Outstanding Senior Bonds (upon maturity or by Sinking Fund Redemption) on such Principal Payment Date, taking into account with respect to each such monthly transfer all other moneys actually available in the Principal Account; provided, however, that to the extent available, each transfer made on the Transfer Date prior to the month in which occurs each Principal Payment Date shall be in an amount sufficient to provide the balance of the principal due on the Senior Bonds on such Principal Payment Date, and provided further that, in the event that there are insufficient Gross Revenues at any time to make the transfer required pursuant this clause, then (x) such transfer shall be made to the Principal Account in an amount such that principal will be paid equally and ratably on such Principal Payment Date on the Senior Bonds Outstanding and (v) an amount equal to the amount of such deficiency shall be transferred to the Bond Fund from the following funds and in the following order: (i) the Operating Reserve Fund; (ii) the Replacement Reserve Fund; (iii) and the Line of Credit;

(5) fifth, by each Transfer Date, to the holder of any Long-Term Indebtedness permitted under the Loan Agreement (other than the Series 2005 Bonds and the Line of Credit), an amount equal to the interest and principal due on such Long-Term Indebtedness;

(6) sixth, by each Transfer Date, for the account of the Manager, an amount equal to payment the Subordinated Management Fee then due and payable;

(7) Reserved;

(8) eighth, by each Transfer Date, to the Line of Credit Noteholder, an amount equal to the interest and principal due and payable on the Line of Credit Note;

(9) ninth, by each Transfer Date, commencing in December 2005, to the Replacement Reserve Fund, an amount equal to the Monthly Replacement Reserve Fund Deposit to the extent the amount on deposit in the Replacement Reserve Fund is less than the Replacement Reserve Fund Requirement;

(10) tenth, by each Transfer Date, to the Subordinate Series 2005C Bond Interest Account of the Bond Fund the amount necessary to accumulate in equal monthly installments by each Interest Payment Date the interest on the Subordinate Bonds due on such Interest Payment Date.

(11) eleventh, by each Transfer Date, (i) to the Operating Reserve Fund, an amount equal to 40% of the amount remaining in the Revenue Fund after paying (1) through (10) above, and (ii) towards principal amortization of the Subordinate Series 2005CBonds, to the 2005C Principal Subaccount of the Principal Account of the Bond Fund for application to the Excess Funds Redemption of the Subordinate Bonds, an amount equal to 60% of the remainder after paying (1) through (10) above; and

(12) twelfth, by each Transfer Date, any excess funds remaining in the Revenue Fund after paying (1) through (11) above shall be deposited in the Operating Reserve Fund.

The deposits pursuant to clauses (1) through (11) above shall be cumulative such that if a required deposit in any month is not made, then no deposit shall be made pursuant to any clause below such clause until such unmade deposit is made.

Notwithstanding the foregoing, all transfers pursuant to clauses (6), (8), (10), and (11) above shall be suspended, and shall not be made, if (i) as of the most recent Quarterly Evaluation Date, the Maximum Trade Payables Level shall have been exceeded; (ii) an Event of Default shall have occurred and be continuing; (iii) the Borrowers, collectively, shall have failed to comply with the Debt Service Coverage Ratio Requirements with respect to the most recent Quarterly Evaluation Date; or (vi) the Borrowers, collectively, shall have failed to comply with the Liquidity Covenant with respect to either of the most recent Quarterly Evaluation Date.

Upon the acceleration of the principal of the Senior Bonds outstanding pursuant to the Indenture, the Trustee shall immediately transfer all amounts in the Revenue Fund over to the Bond Fund for application pursuant to the Indenture unless a Majority of the Owners of the Senior Bonds consent to not making such transfer.

While any Event of Default shall have occurred and be continuing,, the Trustee, at the direction of a Majority of the Owners of the Senior Bonds, shall apply moneys in the Revenue Fund to the payments described in paragraphs (3) and (4) above prior to the payment of some or all of the payments to be made under paragraph (2) above.

With the approval of a Majority of the Owners of the Senior Bonds, the payment of Short Term Indebtedness or of the Subordinated Management Fee payable to a replacement Manager may be changed at the direction of the Borrowers to accord such payments a higher level of priority under the application of revenues set forth above.

The Indenture provides that in the event revenues transferred pursuant to the Indenture as set forth above are not sufficient to pay Operating Expenses when required, the Borrowers shall, subject to the conditions for payment of certain Operating Expenses, request funds to pay Operating Expenses from the following sources and in the following order of priority until the Operating Expenses are provided for in full: (i) the Operating Reserve Fund; (iii) the Replacement Reserve Fund; and (iii) the Line of Credit

For further description of the application of revenues from the Revenue Fund, see APPENDIX E - “Definitions of Certain Terms and Summaries of Principal Documents; Summary of Certain Provisions of Trust Indenture; Flow of Funds” and “ Operating Reserve Fund.”

### **Project Fund**

At the time of the issuance of the Senior Bonds, Senior Bond proceeds in the amount of \$12,795,409 will be deposited in the Project Fund established under the Indenture and used by the Borrowers to purchase the Facilities from the Seller. See APPENDIX E - “Definitions of Certain Terms and Summaries of Principal Documents; Summary of Certain Provisions of Trust Indenture; Project Fund” for a more detailed description of the Project Fund.

### **Capital Additions Fund**

At the time of the issuance of the Senior Bonds, Senior Bond proceeds in the amount of \$50,000 will be deposited in the Capital Additions Fund established under the Indenture and used by the Borrowers to finance the costs of certain repairs and equipment replacements to the Facilities. See APPENDIX E - “Definitions of Certain Terms and Summaries of Principal Documents; Summary of Certain Provisions of Trust Indenture; Capital Additions Fund” for a more detailed description of the Capital Additions Fund.

### **Operating Reserve Fund**

The Borrowers are required under the Indenture to make monthly deposits in the Operating Reserve Fund of a certain portion of the amounts remaining in the Revenue Fund after the required transfers under the Indenture. See “— Application of Gross Revenues” above. Upon the receipt of a certificate from the Authorized Borrower Representative stating that (i) some portion of the moneys on deposit in the Operating Reserve Fund is needed for Operating Expenses, and (ii) there are no moneys available in the Revenue Fund for such purpose, the Trustee shall pay over to, or upon the order of the Borrowers, the requested amount from the Operating Reserve Fund. In addition, upon the receipt of a certificate from the Authorized Borrower Representative stating that (i) some portion of the moneys on deposit in the Operating Reserve Fund is needed to finance a Capital Addition for the Facilities (other than an expansion unless the Trustee has also received the written consent thereto from a Majority of the Owners of the Senior Bonds), and (ii) there are no moneys available in the Replacement Reserve Fund for such purpose, the Trustee shall pay over to the appropriate Borrower the requested amount from the Operating Reserve Fund, which the Borrower shall use to finance such Capital Addition as soon as practicable; provided, however, if the requested amount exceeds \$250,000, such amount shall be transferred to the Capital Additions Fund and used to finance such Capital Addition through the requisition process provided in the Indenture with respect to the Capital Additions Fund. If there is an Event of Default, withdrawals from the Operating Reserve Fund to pay Operating Expenses may be prohibited at the written direction of a Majority of the Owners of the Senior Bonds. In addition, moneys in the Operating Reserve Fund may be used, under certain circumstances specified in the Indenture, (i) to cure any deficiency in the Bond Fund on any Interest Payment Date or Principal Payment Date (other than in connection with the payment of debt service on the Subordinate Bonds or any optional redemption of the Series 2005 Bonds); (ii) to make required transfers to the Bond Fund under the Indenture on any date such transfers are required (other than in connection with the payment of debt service on the Subordinate Bonds or any optional redemption of the Series 2005 Bonds) if Gross Revenues are insufficient to provide for such transfer; or (iii) to cure any deficiency in the Rebate Fund. Moneys in the Operating Reserve Fund will be used to cure any deficiency in the Bond Fund prior to moneys in the Replacement Reserve Fund. Moneys in the Operating Reserve Fund may be not be used, to pay interest and principal on the Subordinate Bonds or the Line of Credit or Subordinate Management Fees.

Under the Indenture, on any Interest Payment Date, provided that no Event of Default has occurred and is continuing under the Indenture and no deficiency exists in any fund established under the Indenture, the Trustee shall pay to or upon direction of the Borrowers any amount in the Operating Reserve Fund in excess of 120 Days Cash-on-Hand.

For a more complete description of the operation of the Operating Reserve Fund, see APPENDIX E - "Definitions of Certain Terms and Summaries of Principal Documents; Summary of Certain Provisions of Trust Indenture; Operating Reserve Fund."

### **Replacement Reserve Fund**

Commencing in December 2005, the Borrowers are required to make monthly deposits from revenues of the Facilities to the Replacement Reserve Fund equal to the Monthly Replacement Reserve Fund Deposit of \$6,666.67 until the amount therein equals the Replacement Reserve Fund Requirement of \$160,000. Under the Indenture, the Monthly Replacement Reserve Fund Deposit and the Replacement Reserve Requirement shall be adjusted each year incrementally with any increase in the CPI, commencing January 1, 2007, and shall be increased as recommended in the physical condition report required every five years pursuant the Loan Agreement. Once the Replacement Reserve Fund Requirement is satisfied, the fund will be replenished as necessary by the Monthly Replacement Reserve Fund Deposit when funds are withdrawn.

Upon receipt of a certificate of the Authorized Borrower representative stating that some portion of the moneys on deposit in the Replacement Reserve Fund is needed to (A) finance a Capital Addition (as defined in the Indenture) or (B) to pay Operating Expenses, and in either case there are no moneys therefor in the Revenue Fund, the Trustee shall pay over to the appropriate Borrower the requested amount from the Replacement Reserve Fund, which the Borrower shall use to finance such Capital Additions or pay such Operating Expenses as soon as practicable; provided, however, if the requested amount exceeds \$250,000, such amount shall be transferred to the Capital Additions Fund and used to finance such Capital Addition through the requisition process provided in the Indenture with respect to the Capital Additions Fund. If there is an Event of Default, withdrawals from the Replacement Reserve Fund to finance Capital Additions or to pay Operating Expenses may be prohibited at the written direction of a Majority of the Owners of the Senior Bonds. Under the Indenture, funds in the Replacement Reserve Fund may be used to pay Operating Expenses only after amounts from the Operating Reserve Fund have proven insufficient.

In addition, moneys in the Replacement Reserve Fund may be used, under certain circumstances specified in the Indenture, (i) to cure any deficiency in the Bond Fund on any Interest Payment Date or Principal Payment Date (other than in connection with the payment of debt service on the Subordinate Bonds or any optional redemption of the Series 2005 Bonds); (ii) to make required transfers to the Bond Fund under the Indenture on any date such transfers are required (other than in connection with the payment of debt service on the Subordinate Bonds or any optional redemption of the Series 2005 Bonds) if Gross Revenues are insufficient to provide for such transfer; or (iii) to cure any deficiency in the Rebate Fund. Moneys in the Replacement Reserve Fund will be used to cure any deficiency in the Bond Fund after moneys available in the Operating Reserve Fund. Moneys in the Replacement Reserve Fund may not be used, to pay interest and principal on the Subordinate Bonds or the Line of Credit or Subordinate Management Fees. Deposits to the Replacement Reserve Fund are required to be made to the extent Gross Revenues are available to do so. The failure to make any deposits to the Replacement Reserve Fund due to insufficient available moneys will not constitute an Event of Default under the Indenture or the Loan Agreement.

For a more complete description of the operation of the Replacement Reserve Fund, see APPENDIX E - "Definitions of Certain Terms and Summaries of Principal Documents; Summary of Certain Provisions of Trust Indenture; Replacement Reserve Fund."

### **Periodic Reports by the Borrowers**

Under the Loan Agreement, the Borrowers have agreed to provide certain reports concerning the condition of the Facilities and compliance with the Loan Agreement to the Underwriter and as the Trustee, the Authority, any Significant Owner may reasonably request, including but not limited to, the following reports.



On or before the 120th day following each Annual Evaluation Date, each of the Borrowers shall furnish to the Underwriter, the Trustee, and any Significant Owner, a certificate signed by the chief operating officer of the Borrower, stating that such Borrower has caused its operations for the year to be compiled and that in the course of that compilation, no default under the Indenture or Financing Documents (as defined in the Indenture) has come to its attention or, if such a default has appeared, a description of the default and any plan for the remedy of the default.

On or before the 120th day following each Annual Evaluation Date, each of the Borrowers shall furnish to the Trustee, the Underwriter, and any Significant Owner, copies of its compiled financial statements for the fiscal year ending on such date, and any management letter delivered by the compilers in connection with such financial statements.

On or before the 120th day following each Annual Evaluation Date, the Borrowers shall deliver to the Trustee, the Underwriter and any Significant, a report of the Borrowers evidencing the Borrowers' compliance or non-compliance with each of the Financial Covenants. Such report shall be reviewed by a Certified Public Accountant.

Within 45 days after each Quarterly Evaluation Date, each of the Borrowers shall furnish to the Underwriter, the Trustee and any Significant Owner, copies of its internally generated unaudited balance sheet as of such Quarterly Evaluation Date and statement of operations for the quarter ending on such Quarterly Evaluation Date, prepared on an accrual basis, together with (i) a supplemental report of the operating statistics of the related Facility, including calculations evidencing the Borrower's compliance or noncompliance with each of the Financial Covenants, and any other operating information which the Underwriter, the Trustee or any Significant Owner may reasonably request, (ii) a comparison showing the variance of the annual budget to the statement of operations for the quarter and (iii) a Certificate of each of the Borrowers in reasonable detail, evidencing the Borrowers' compliance or non-compliance with the Financial Covenants as of such Quarterly Evaluation Date. The information shall also include year to date statements and be compared to the Operating Budget.

Copies of the reports and statements required to be filed with the Trustee pursuant to the Loan Agreement shall be filed with the Trustee in sufficient quantity to permit the Trustee to retain at least one copy for inspection by Owners and to permit the Trustee to mail a copy to each Owner who requests it in writing. The Trustee shall maintain a list of Owners of the Bonds who have made such a request.

Each of the Borrowers will agree in the Loan Agreement that the Trustee and any Significant Owner, by their duly authorized representatives, at reasonable times, upon reasonable notice to the Borrower in writing, may inspect any of the Facilities and each of the Borrowers' books and records and discuss the financial affairs of each of the Borrowers with the chief executive officer or chief financial officer of such Borrower. The Borrowers will also agree to have the Authorized Borrower Representative provide to any Significant Owners, upon request, copies of all state inspection reports and plans of corrections in response thereto with respect to the Facilities.

### **Subordination of the Subordinate Bonds**

Under the Indenture, each monthly transfer from the Revenue Fund to the Bond Fund to accumulate the interest payable on the Subordinate Bonds on the next Interest Payment Date is subject to the Trustee having previously made the transfers necessary that month to pay the Operating Expenses of the Facilities, accumulate the debt service payable on the Senior Bonds on the next Principal and Interest Payment Dates, pay debt service due on any Long Term Indebtedness permitted under the Loan Agreement, pay the Subordinate Management Fee, pay the debt service due on the Line of Credit and make the required Monthly Replacement Reserve Fund Deposit. In addition, under the Indenture, the monthly transfer of monies to the Bond Fund to accumulate the amount necessary for the payment of interest due on the Subordinate Bonds may not be made if: (i) as of the most recent Quarterly Evaluation Date, Maximum Trade Payables Level shall have been exceeded; (ii) an Event of Default shall have occurred and be continuing; (iii) the Borrowers shall have failed to comply with the Debt Service Coverage Ratio Requirements with respect to the most recent Quarterly Evaluation Date; or (iv) the Borrowers shall have failed to comply with the Liquidity Covenant with respect to the most recent Quarterly Evaluation Date. See "SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS -Application of Gross Revenues" herein.

In addition, the Subordinate Bonds are interest only until maturity on January 1, 2026, with the monthly transfers from the Revenue Fund to the Bond Fund to accumulate the principal due on that date subject to the same restrictions as described above with respect to the interest on the Subordinate Bonds. Under the Indenture, prior to their maturity, the Subordinate Bonds are also subject to mandatory Excess Funds Redemption annually from 60% of the excess revenues available each month after the payment of all other items in the flow of funds described above under “SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS -Application of Gross Revenues”, and only after the delivery to the Trustee of the complied financial statements for the Borrowers for the preceding fiscal year and a certificate of the Authorized Borrower Representative that the Borrowers are in compliance with all their covenants contained in the Financing Documents.

Also, under the Indenture failure to pay debt service on the Subordinate Bonds because of insufficient revenues is not an Event of Default under the Indenture or the Loan Agreement. The Indenture also provides that as long as the Senior Bonds or any Additional Bonds are outstanding, the Owners of the Subordinate Bonds will “stand still” after the occurrence of an Event of Default and shall not exercise any rights without the consent of the Majority of Owners of the Senior Bonds. In addition, under the Indenture, in the event that the Senior Bonds and Subordinate Bonds have been accelerated, the Indenture provides that all payments must be made with respect to the Senior Bonds before any payments are made with respect to the Subordinate Bonds.

### **Limitations on Enforceability**

Enforcement of a claim for payment of the principal of or interest on the Senior Bonds could be made subject to any statutes that may be constitutionally enacted by the United States Congress or the Legislature of the State affecting the time and manner of payment or imposing other constraints upon enforcement.

The enforcement of the Indenture, the Loan Agreement, the Mortgages and the Senior Bonds may be limited by bankruptcy, insolvency, moratorium, and other similar laws and equitable principles affecting creditors’ rights and remedies generally, and by the exercise of judicial discretion in accordance with general principles of equity. See “BONDHOLDERS’ RISKS - Enforceability of Remedies; Bankruptcy” herein.

The ability of the Trustee to foreclose on the Mortgages and apply Gross Revenues and other amounts in the possession of the Trustee to the payment of the Senior Bonds may be limited by the exercise of judicial discretion in accordance with general principles of equity and public policy to the extent constitutionally applicable, and by bankruptcy and other laws affecting creditors’ rights.

### **Additional Indebtedness**

The Borrowers may incur Long Term Indebtedness for the purpose of financing Capital Additions, financing the acquisition, construction and equipping of Additional Facilities or refinancing existing Indebtedness under certain circumstances set forth in the Loan Agreement including delivery of certain certificates and opinions with respect to such Long Term Indebtedness. The Borrowers may incur Short Term Indebtedness for the purpose of providing working capital to pay Operating Expenses under certain circumstances set forth in the Loan Agreement.

Long Term Indebtedness. So long as the Loan Agreement is in effect and the Borrowers shall be in compliance with the provisions of the Indenture and the Loan Agreement, the Borrowers may incur Long Term Indebtedness, upon the delivery of certain certificates and opinion set forth in the Loan Agreement and satisfaction of certain conditions precedent set forth in the Loan Agreement, including: (i) the prior written consent of the Majority of the Owners of the Senior Bonds; (ii) compliance with the Financial Covenants to the extent applicable for the preceding fiscal year; (iii) a feasibility study is prepared by a Consultant not unacceptable to a Majority of the Owners of the Senior Bonds forecasting a Debt Service Coverage Ratio taking into account the Long Term Indebtedness to be issued of at least 1.15 for each of the two full Fiscal Years following the projected completion date or date to which interest has been capitalized, whichever is earlier, for any Capital Addition financed with such proceeds, or following the issue of such Long Term Indebtedness for an acquisition; and (iv) following the issue of such Long Terms Indebtedness the Leverage Ratio shall be no greater than 0.08 as set forth in the Loan Agreement. “Leverage Ratio” as defined in the Loan Agreement means, as of any date of calculation, the ratio of (a) unrestricted and unencumbered cash and investments including board designated funds and all Trustee-held funds except the

Bond Fund, and the Rebate Fund, to (b) the aggregate principal amount of the Series 2005 Bonds and other Long Term Indebtedness then Outstanding (including the Line of Credit and the Subordinate Bonds). In addition. The Borrowers may incur Additional Long Term Indebtedness without meeting the foregoing requirements in an aggregate principal amount not to exceed at the time of incurrence three percent (3%) of the Net Revenues (as defined herein) of the Borrowers for the preceding Fiscal Year in order to acquire equipment and fixtures for the Facilities provided such indebtedness is in the form of purchase money security interests or capital leases for such equipment and the liens on which lien may be superior to any liens granted to secure the Borrowers' obligations with respect to the Senior Bonds. The Borrowers may incur Long Term Indebtedness for the purposes of refunding Bonds or other Long Term Indebtedness provided that the Borrowers deliver the certificates and documents required under the Loan Agreement and provided that after the incurrence of such Long Term Indebtedness, the Debt Service Requirements on all Long Term Indebtedness will not be increased in any Fiscal Year (as evidenced by a report of a Certified Public Accountant). See APPENDIX E – "Definitions of Certain Terms and Summaries of Principal Documents; Summary of Certain Provisions of Loan Agreement; Long Term Indebtedness – General Provisions" herein. Any additional Long Term Indebtedness will be subject to the priority of payment provisions set forth under "SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS—Application of Gross Revenues" above.

"Net Revenues" as defined in the Loan Agreement means the total revenues of the Facilities, , but as to interest including only interest earned on funds and accounts created under the Indenture which is deposited in the Bond Fund or the Revenue Fund, all determined in accordance with GAAP consistently applied; provided, however, that Net Revenues does not include (i) any extraordinary gain or loss on the extinguishment of debt or any extraordinary gain or loss on the sale of an asset not in the ordinary course of business or other extraordinary items, (ii) any gift, grant, bequest, contribution or donation or any income or profit therefrom, or (iii) proceeds of insurance other than business interruption insurance.

Short Term Indebtedness. So long as the Loan Agreement is in effect and the Borrowers shall be in compliance with the provisions of the Indenture and the Loan Agreement, the Borrowers may incur Short Term Indebtedness in addition to the Line of Credit for the purpose of providing working capital to pay Operating Expenses, upon the delivery to the Trustee of a certificate demonstrating in detail that the principal amount of any Short Term Indebtedness to be incurred, when added to the then outstanding principal amount of all Short Term Indebtedness (other than the Line of Credit) shall not exceed fifteen percent (15%) of the Borrowers' total operating revenues for the Fiscal Year immediately preceding the date of such incurrence. Under the Loan Agreement, the Borrowers will agree that the principal amount of such Short Term Indebtedness (other than the Line of Credit) shall be reduced to zero for at least 30 consecutive days in each Fiscal Year; provided that the foregoing shall not apply if the Borrowers deliver to the Trustee an Officer's Certificate stating that having Short Term Indebtedness outstanding in excess of such limit is necessary to offset a temporary delay in receipt of funds from third party payors and a Consultant's certificate stating that the outstanding balance of Short Term Indebtedness has been reduced to the minimum practicable amount taking into account such delay.

Short Term Indebtedness (other than the Line of Credit) may be secured by liens on the Borrowers' Accounts Receivable which may be superior to the liens granted thereon under the Mortgages or may be secured by liens on other Gross Revenues which shall be expressly subordinate to the lien on Gross Revenues granted under the Mortgages. See APPENDIX E – "Definitions of Certain Terms and Summaries of Principal Documents; Summary of Certain Provisions of Loan Agreement; Short Term Indebtedness" and "Security for Indebtedness" herein.

Senior Bond Refinancing Transaction. In addition, under the Indenture and Loan Agreement, in the event the Borrowers elect to refinance the Senior Bonds instead of obtaining a Replacement Interest Rate Cap (a "Senior Bond Refinancing Transaction") during the 10 year period following the issuance of the Series 2005A Bonds, such Senior Bond Refinancing Transaction may be made on a basis superior to the Series 2005C Bonds. At the time of such Senior Bond Refinancing Transaction, the Indenture, the Loan Agreement and all Financing Documents shall be deemed modified (i) to eliminate all references to the Senior Bonds; (ii) evidence the fact that the Series 2005C Bonds are in all respects subordinate and junior to the Senior Bond Refinancing Transaction with the same force and effect as though the Senior Bond Refinancing Transaction had occurred prior to the issuance of the Series 2005C Bonds; and (iii) to reflect that all liens, security interests and mortgages which are granted in connection with the Senior Bond Refinancing Transaction are and shall be senior and superior to any and all liens, security interests, mortgages, pledges and other collateral securing the Series 2005C Bonds.

## **Additional Bonds**

So long as the Loan Agreement is in effect and the Borrowers shall be in compliance with the provisions of the Indenture and the Loan Agreement, the Authority may, at the request of the Borrowers, issue Additional Bonds for the purpose of refunding all or a portion of the Bonds. Such Additional Bonds may be issued upon the satisfaction of certain conditions precedent set forth in the Indenture, including the prior written consent of the Majority of the Owners of the Senior Bonds and compliance with the conditions for Additional Long Term Indebtedness referenced above. Such Additional Bonds shall be secured by and shall be payable from the receipts and revenues of the Facilities on a parity with the Senior Bonds. Prior to the issuance of a Series of Additional Bonds and the execution of a Supplemental Indenture in connection therewith, the Borrowers shall enter into an amendment or supplement to the Loan Agreement and the Mortgages evidencing and securing the Borrowers' obligations to make payments in amounts sufficient to pay the principal and interest on all Outstanding Bonds (including the Additional Bonds to be issued). See APPENDIX E - "Definitions of Certain Terms and Summaries of Principal Documents; Summary of Certain Provisions of Trust Indenture; Additional Bonds" herein.

## **Transfer of a Facility**

The Loan Agreement provides that under certain circumstances the Borrowers may transfer a Facility free and clear of the lien of the Mortgages upon delivery to the Trustee of: (A) a certificate of the Borrowers: (i) showing that the Borrowers have met the requirements of the Debt Service Coverage Covenant and Liquidity Covenant for the most recent Fiscal Year and fiscal quarter; and (ii) stating that such transfer will not impair the use, operation or value of the remaining portion of the Mortgaged Property; (B) an opinion of Bond Counsel that such transfer will not cause any Series 2005 Bonds to lose the exclusion from gross income for federal income tax purposes; and (C) the prior written consent of the Owners of a Majority of the Senior Bonds. Under the Loan Agreement, any proceeds received from the transfer of a Facility shall be applied, as directed by the Owners of a Majority of the Senior Bonds, to one or more of the following purposes: (a) to the acquisition, construction or improvement of a Facility subject to the Mortgages; (b) to the optional redemption of all or a portion of the Series 2005 Bonds (as determined and directed by the Owners of a Majority of the Senior Bonds); or (c) to the making of a deposit into the Replacement Reserve Fund. See APPENDIX E - "Definitions of Certain Terms and Summaries of Principal Documents; Summary of Certain Provisions of Loan Agreement; Restrictions on Encumbrance - Sale and Lease of Property" herein.

## **Amendment of Indenture and Loan Agreement**

The Authority or the Trustee may amend or supplement the Indenture and the Loan Agreement only upon prior notice to all Owners of the Bonds and with the consent of a Majority of the Owners of the Senior Bonds. Except as otherwise noted below, unless the consent of all Owners which are affected has been obtained, no amendment or supplement may (i) extend the maturity of the principal of, or interest on, any Bond, (ii) reduce the rate of interest, or waive the payment of interest or principal on any Bond, (iii) effect a privilege or priority of any Bond or Bonds over any other Bond or Bonds, (iv) reduce the percentage of the principal amount of the Bonds required for consent to such amendment or supplement, or (v) reduce the redemption price of such Bonds. Notwithstanding the provisions described in the preceding sentence, at any time while a Monetary Default has occurred and is continuing, any amendment or supplement to the Indenture, the Bonds or any Financing Document which would otherwise require the consent of a Majority of the Owners affected by such change, shall only require the consent of the Majority of the Owners of the Senior Bonds provided that any such amendment or supplement does not affect the Owners of the Subordinate Bonds more adversely than the Owners of the Senior Bonds or any Additional Bonds. "Monetary Default" is defined in the Indenture as an Event of Default under the Indenture, the Loan Agreement or the Mortgages arising as a result of the failure to pay amounts owing by the Borrower thereunder. . See APPENDIX E - "Definitions of Certain Terms and Summaries of Principal Documents" for a summary of the provisions regarding amendments and supplements to the Indenture and the Loan Agreement.

## **REGULATION OF THE NURSING HOME INDUSTRY**

### **General**

The Morning Breeze Retirement Community & Healthcare Center (“Morning Breeze”) includes 44 comprehensive care nursing beds (the “Morning Breeze Nursing Section”) for which it is expected that American Eagle Morning Breeze, LLC (the “Morning Breeze Borrower”) will receive payments from third party payors. The following discussion of the nursing home industry is applicable to the Morning Breeze Nursing Section and the Morning Breeze Borrower.

### **General Industry Factors**

The nursing home industry is subject to extensive federal, state and, in some cases, local regulation with respect to reimbursement, licensure, certification and health planning. This regulation relates, among other things, to the adequacy of physical plant and equipment, qualifications of personnel, standards of medical care and operational requirements. Compliance with such regulatory requirements, as interpreted and amended from time to time, can increase operating costs and thereby adversely affect the financial viability of the Facilities. Failure to comply with current or future regulatory requirements could also result in restrictions on admission, the revocation of licensure, decertification or the closure of the Morning Breeze Nursing Section.

Government reimbursement programs, particularly the Medicaid and the Medicare programs, are subject to statutory and regulatory changes, administrative rulings, interpretations of policy, determinations by fiscal intermediaries, and government funding restrictions, all of which may materially increase or decrease the rate of program payments to nursing home facilities. As a result, the nursing home industry is sensitive to legislative and regulatory changes in and limitations to governmental spending for such programs. Over the past several years, Congress has consistently attempted to curb the growth of federal spending on health care programs. Recent actions include limitations on spending for such programs, limitations on specific categories of payments, elimination of funding for health planning agencies, severe restrictions on any “step-up” in basis for reimbursement purposes upon a sale of a health care facility and an increased emphasis on competition and other programs which potentially could have adverse effects on the results of operation of the Morning Breeze Nursing Section or its collateral value.

Changes in applicable laws and regulations, or new interpretations of existing laws and regulations, could have a material adverse effect on certification or licensure of the Morning Breeze Nursing Section, eligibility for participation in federal and state programs, permissible activities, costs of doing business, or the levels of reimbursement from governmental, private or other sources. Political, economic and regulatory influences are subjecting the health care industry, including the nursing home industry, to fundamental changes. The Morning Breeze Borrower cannot predict the content or impact of future legislation and regulations affecting the Morning Breeze Borrower or the Morning Breeze Nursing Section. There can be no assurance that regulatory authorities will not adopt changes or new interpretations of existing regulations that could adversely affect the Morning Breeze Borrower and/or Morning Breeze Nursing Section.

In addition, state and local agencies survey certain providers on a regular basis to determine whether such providers are in compliance with government operating and health standards, and conditions for participation in government medical assistance programs. Providers that fail to meet these standards and conditions can be subject to penalties, denial of payments and loss of licensure.

### **Regulation of the Long Term Care Industry -- Generally**

Nursing facilities are subject to extensive federal and state regulatory requirements. Effective July 1, 1995, the federal government implemented stricter guidelines for annual state surveys of nursing facilities. Remedies include fines, new patient admission moratoriums, denial of reimbursement, federal or state monitoring of operations, closure of facilities, and termination of provider reimbursement agreements. These provisions restrict the ability of operators to appeal the scope and severity of any deficiencies and grant state regulators the authority to impose new remedies, including monetary penalties, denial of payments, and termination of the right to participate in the Medicare or Medicaid programs.

## **Sources of Revenue--Generally**

The Morning Breeze Borrower will receive revenues with respect to Morning Breeze Nursing Section from Medicare, Medicaid, private insurance, self-pay patients, and other miscellaneous public and private programs. The health care industry is experiencing a strong trend toward cost containment, as government and other third party payors seek to impose lower reimbursement and utilization rates and negotiate reduced payment schedules with providers. These cost containment measures, combined with the increasing influence of managed care payors and competition for patients, generally have resulted in reduced rates of reimbursement for services to be provided by the Morning Breeze Nursing Section. Aspects of certain health care reform proposals, such as cutbacks in payment under the Medicare and Medicaid programs, containment of health care costs on an interim basis by means that could include a short-term freeze on prices charged by health care providers, and permitting greater state flexibility in the administration of Medicaid, could adversely affect the Morning Breeze Borrower.

The sources and amounts of the patient revenues of the Morning Breeze Nursing Section will be determined by a number of factors, including licensed bed capacity, occupancy rate, the mix of patients and the rates of reimbursement among payors. Changes in occupancy, the case mix of patients in the Morning Breeze Nursing Section, as well as the mix of the patients in the Morning Breeze Nursing Section among private pay, Medicare, and Medicaid will significantly affect the profitability of the Morning Breeze Nursing Section. Managed care organizations and other third party payors have continued to increase their influence over the delivery of healthcare services. The healthcare needs of a large percentage of the United States population are provided by a decreasing number of managed care organizations and third party payors. These organizations generally enter into service agreements with a limited number of providers for needed services. To the extent that such organizations refuse to enter into service agreements with the Morning Breeze Borrower or enter into arrangements with competitors, the Morning Breeze Nursing Section could be materially adversely affected.

## **Medicare Reimbursement**

The Health Insurance for Aged and Disabled Act (Title XVIII of the Social Security Act), known as "Medicare," has made available to nearly every American 65 years of age and older a broad program of health insurance designed to help the nation's elderly meet hospital and other health care costs. The Morning Breeze Nursing Section is certified to provide skilled nursing services covered by the Medicare program. The requirements for certification under the Medicare program are subject to change, and to remain qualified, it may be necessary for the Morning Breeze Nursing Section to make changes from time to time in its facilities, equipment, personnel or services. Although the Morning Breeze Borrower intends for the Morning Breeze Nursing Section to participate in Medicare, there can be no assurance that the Morning Breeze Nursing Section will continue to be qualified for participation.

Covered nursing facility services under Medicare include: (i) nursing care provided by or under the supervision of a registered professional nurse; (ii) bed and board in connection with the furnishing of such nursing care; (iii) physical, occupational or speech therapy furnished by the nursing facility or by others under arrangement; (iv) medical social services; and (v) such drugs, biological supplies, appliances, and equipment furnished for use in the nursing facility, as are ordinarily furnished by such facility for the care and treatment of inpatients.

## **Medicaid Reimbursement**

Medicaid is a federal-state cooperative program. The federal government recently has made significant changes in the Medicaid program. For example, in the 1997 Act, Congress repealed the Boren Amendment. The Boren Amendment required states to pay Medicaid rates that were "reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities ..." Congress has replaced the Boren Amendment with a public process for determining reimbursement rates for providers. This process must include a public notice and comment on the proposed rates and the methodologies used in determining them.

The Office of Medicaid Policy and Planning ("OMPP"), Family and Social Services Administration ("FSSA") administers Indiana's Medicaid program. The Medicaid program provides health care to the following groups of low income individuals; families with children, pregnant women and children, aged, and blind and

disabled. The Medicaid program must provide care to “categorically needy” persons and can provide care to “medically needy persons.”

The Indiana Medicaid program covers nursing facility services. These services are covered for all patients except those in institutions for mental diseases. Prior authorization is required for nursing facility admissions, facility transfers, readmissions and level of care changes. In addition, Medicaid pays facilities for reserving a bed for a limited period.

Nursing facilities historically were paid facility-specific payment based on average, per-patient-day costs, subject to various limitations. The rates were affected by a facility’s occupancy level as well as general economic trends. Rate ceilings were established by Medicaid based on various peer groups and broad care level categories. Facilities operating below their rate ceilings could share in the difference.

Effective October 1, 1998, the Indiana Medicaid program implemented a case-mix payment system for nursing facilities. The payment systems contains four components: direct care, indirect, capital and administrative and general. Each component is separately reimbursed. The direct care component, based on the facility’s costs, is adjusted by a case-mix factor and subject to a cap. The case-mix factor is adjusted quarterly based on Medical Data Sheet (“MDS”) assessments filed by the facility. The indirect, capital and administrative and general components are based on the facility’s costs. These components are subject to an overall rate limitation, or cap. If the facility’s costs for a component are less than the cap, the facility receives sixty percent (60%) of the difference for that component. If the facility’s cost exceed the cap, the facility bears the loss.

This system was developed after a series of lawsuits filed against the State by various health facilities. It is still subject to approval from HCFA. Therefore, the parties filed a stay granted by the Indiana Supreme Court. The parties, through a settlement agreement, will seek joint dismissal of the outstanding appeals after the state files its state plan amendment.

Nursing facilities in Indiana are required to pay an annual "quality assessment fee" to the Office of Medicaid Policy and Planning within the Indiana Family and Social Services Administration. However, at present, continuing care retirement communities, such as Morning Breeze, are exempt from the requirement to pay that fee.

Medicaid Managed Care. Hoosier Healthwise is Indiana’s Medicaid managed care program. The program has two components. One component is mandatory managed care for persons eligible for Medicaid because of pregnancy and for children at or just above the federal poverty line. The second component is a voluntary, risk-based, managed care program for persons who are eligible for Medicaid due to disability (“MCPD program”). OMPP began implementing the program for pregnant women and children in 1994 and it became statewide in 1996. The MCPD program was implemented in 1997 and currently is only available in Marion County. Most Medicaid-covered services, under fee-for-service, are covered in Hoosier Healthwise, except long-term care services, home and community-based waiver services and hospice services are excluded.

### **Fraud and Abuse, Self-Referral, and Related Prohibitions**

The Morning Breeze Nursing Section is subject to federal and state statutes and regulations that govern financial relationships between health care providers and potential referral sources, and reimbursement for services and items provided to federal and state health care program beneficiaries. Such laws include the federal and state anti-kickback statutes, the federal False Claims Act, the federal Stark law, and similar other federal and state prohibitions. The federal government, the state, and private third-party insurance payors have made preventing health care fraud and abuse one of their highest enforcement priorities, resulting in increasing resources devoted to this issue. Consequently, the Office of Inspector General of HHS (“OIG”), and other enforcement authorities, are increasing scrutiny of arrangements between health care providers for possible violations of the anti-kickback statute or other federal laws.

## **Licensing and Certification**

Only the nursing and residential care beds at Morning Breeze must be licensed to operate as health facilities by the Indiana Department of Health (“ISDH”). Indiana recognizes a number of different care categories of health facilities, including comprehensive care facilities. A health facility seeking licensure as a comprehensive care facility must comply with the provisions of 410 IAC § 16.2-3.1-1 et seq. A license issued to a health care facility is not assignable or transferable and is issued only for the person and premises named in the application. Any change in direct or indirect corporate ownership of five percent (5%) or more that occurs during the licensure period must be reported in writing to the director of the Division of Long Term Care, ISDH (the “Director”). If an applicant fails to notify the Director of the change of ownership, a full license generally cannot be granted. If an applicant notifies the Director and otherwise meets the qualifications for state licensure, the Director generally will issue a license to a new owner. The Director will not issue a license to the applicant before the effective date of the change of ownership (the “Effective Date”). The Director customarily issues the license to the new owner after the Effective Date, retroactive to the Effective Date. The new owner typically must comply with any outstanding corrective actions imposed on the previous owner. The Morning Breeze Borrower expects to notify the Director of the anticipated acquisition of the Morning Breeze Facility by the Morning Breeze Borrower prior to the issuance of the Senior Bonds and will notify the Director of the acquisition of the Morning Breeze Facility by the Morning Breeze Borrower upon the issuance of the Senior Bonds.

Federal regulations governing the Medicare and Medicaid programs provide for an assignment of the provider agreements and provider numbers when a change of ownership occurs. See, 42 C.F.R. §§ 442.14, 489.18. If the new owner desires to participate in the Medicare and/or Medicaid programs, it is required to complete an application to demonstrate its eligibility. This application(s) is completed at the time the applicant notifies the Division of Long Term Care of the ownership change. Failure to complete the application properly can delay the assignment of the provider agreements to the new owner. The Borrowers will attempt to insure that the Medicare and Medicaid certification process is completed as expeditiously as possible. However, there can be no assurance that significant delays in reimbursement will not occur.

The continued licensure, as well as certification to participate in the Medicare and Medicaid programs, depends upon many factors, including, among other things, accommodations, equipment, services, patient care, safety, personnel, physical environment and accounting policies, procedures and controls. Federal, state and local agencies survey nursing homes on a regular basis to determine whether such facilities are in compliance with governmental operations and health standards and conditions for participating in government reimbursement programs. Such surveys include reviews of patient use of facilities and inspection of standards of patient care. The Morning Breeze Borrower and the Manager will attempt to assure that the Morning Breeze Nursing Section will be operated in compliance with all such standards and conditions which are applicable. However, to the extent these standards are not met, the licenses and certifications of the Morning Breeze Nursing Section could be limited, suspended or revoked, or the Morning Breeze Nursing Section could be decertified. Any such action could materially adversely affect the financial condition of the Morning Breeze Nursing Section.

## **Certificate of Need Requirements**

There are currently no Certificate of Need laws, rule or regulations applicable to the Facilities.

## **Future Adverse Healthcare Reform and Other Risks**

The growth in healthcare spending has caused the private sector, Medicare and state Medicaid programs to restructure the financing of health care services for their beneficiaries. One of the most significant changes to the financing of health care services that the Borrowers anticipates is the shift to managed care. The Medicare program, Medicaid program and private insurers are anticipated to place greater reliance on managed care alternatives in the future. The Morning Breeze Borrower believes that it is likely that it will provide services in the Morning Breeze Nursing Section to an increasing proportion of managed care enrollees in the future at payment rates that may not be as favorable as those presently in effect.

Both the Medicare and Medicaid programs are subject to statutory and regulatory changes, administrative rulings, interpretations of policy determinations by insurance companies acting as Medicare fiscal intermediaries



and governmental funding restrictions, all of which may materially increase or decrease the rate of program payments to healthcare facilities. Since 1985, Congress has consistently attempted to limit the growth of federal spending under the Medicare and Medicaid programs. FSSA Secretary Mitch Roob has recently proposed a freeze on Medicaid nursing home rates and a moratorium on any new applications for certifying new Medicaid beds. The Borrowers can give no assurance that payments under the Medicare and Medicaid programs will in the future remain at a level comparable to the present level or be sufficient to cover the operating and fixed costs allocable to the patients of the Morning Breeze Facility. Changes in reimbursement levels under Medicare or Medicaid and changes in applicable governmental regulations could significantly and adversely affect the Morning Breeze Borrower's results of operations. It is uncertain at this time what additional health care reform legislation will be promulgated or whether other changes in the administration or interpretation of government programs will occur. There can be no assurance that future health care legislation or other changes in the administration or interpretation of governmental health care programs will not have a material adverse effect on the results of operations of the Morning Breeze Borrower.

## **BONDHOLDERS' RISKS**

**THE SENIOR BONDS ARE HIGHLY SPECULATIVE IN NATURE AND AN INVESTMENT IN THE SENIOR BONDS IS SUBJECT TO A HIGH DEGREE OF RISK. NO PROSPECTIVE PURCHASER OF THE SENIOR BONDS SHOULD MAKE A DECISION TO PURCHASE ANY OF THE SENIOR BONDS WITHOUT FIRST READING AND CONSIDERING THIS ENTIRE OFFICIAL STATEMENT, INCLUDING ALL APPENDICES ATTACHED HERETO, AND IN PARTICULAR, THIS SECTION ENTITLED "BONDHOLDERS' RISKS." THERE IS NO PUBLIC MARKET FOR THE SENIOR BONDS.**

### **General**

The Senior Bonds are payable solely from revenues and funds pledged under the Indenture (except the Rebate Fund), from payments to be made by the Borrowers pursuant to the Loan Agreement, and by collateral encumbered by the Mortgages. Future revenues and expenses of the Borrowers are subject to conditions which may change in the future and that cannot be determined at this time. In particular, the Morning Breeze Nursing Section is substantially dependent on Medicare and Medicaid reimbursements and no assurance can be given that the Morning Breeze Borrower will continue to be eligible for Medicare and Medicaid reimbursement or that those reimbursements will remain at levels sufficient to enable the Morning Breeze Borrower to pay its expected share of the debt service on the Senior Bonds. In addition, the successful operation of the Facilities is dependent in part, on achieving and maintaining occupancy levels that generate sufficient revenue to pay debt service on the Senior Bonds.

No representations or assurances can be made that revenues will be realized by the Borrowers in the amounts necessary to make payments sufficient to pay the principal of, premium, if any, and interest on the Senior Bonds, or that the Trustee, upon the taking of remedial action under the Indenture, the Loan Agreement or the Mortgages, will be able to realize amounts sufficient for such purpose. Future revenues and expenses of the Borrowers or any other entity which may be involved in operating the Facilities are generally subject to, among other things, continued licensing of the nursing and residential care portions of Morning Breeze Facility, changes in government regulations and reimbursement programs, the capabilities of management, demand for the services provided by the Facilities, competition from other facilities in the service area, rates, costs and numerous other factors, including economic developments in the service areas and changes in the economy in general, and other conditions which are unpredictable and which may adversely affect the payment of principal of, premium, if any, and interest on the Senior Bonds.

Bondholders should also note that future economic and other conditions, including demand for services of the types offered by the Facilities, the ability of the Borrowers to provide at the Facilities the services required by patients and residents, physicians' confidence in the Facilities, together with changes in rates, costs and governmental regulation, may adversely affect revenues and expenses and, consequently, the Borrowers' ability to pay Loan Agreement payments in an amount sufficient to pay principal of, premium, if any, and interest on the Senior Bonds. The future financial condition of the Borrowers could also be adversely affected by, among other things, legislation, regulatory actions, reduced demand for services of the types offered by the Facilities,

demographic changes, the increasing cost of malpractice and liability insurance, malpractice claims and other litigation and a number of other conditions which are unpredictable, including the following risk factors.

This discussion of risk factors is not, and is not intended to be, exhaustive.

### **Limited Obligations**

The Senior Bonds are special and limited obligations of the Authority, payable solely from revenues and receipts expected to be derived by the Borrowers from the operation of the Facilities and from other security pledged for such payment, and are not the obligations of the State of Indiana or any political subdivision thereof. The Authority has no taxing power. No recourse shall be had for the payment of the principal of or redemption price of or the interest on the Senior Bonds or for any claim based on the Senior Bonds or on the Indenture, against any past, present or future member, officer, employee or agent, as such of the Authority or of any predecessor or successor corporation, either directly or through the Authority or otherwise, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise.

### **No Operating History of the Borrowers**

The Borrowers are newly formed and have no established operating history with respect to the Facilities. No representations or assurances can be made that the Borrowers will be able to generate sufficient revenues from the Facilities to meet the debt service requirements of the Senior Bonds.

### **Limited Resources of the Borrowers**

The Borrowers have conducted no operations to date and presently have no significant assets. The Borrowers are entirely dependent upon the successful operation of the Facilities to meet its debt service obligations with respect to the Senior Bonds and its other obligations under the Loan Agreement. The Borrowers does not have any sources of funds other than those provided by the Senior Bonds, amounts made available under the Line of Credit and amounts which may be provided from the operation of the Facilities. No representations or assurances can be made that revenues will be realized by the Borrowers in amounts necessary to enable the Borrowers to make payments pursuant to the Loan Agreement sufficient to pay the principal of, premium, if any, and interest on the Senior Bonds.

### **Lack of Secondary Market**

The Underwriter expects to effect secondary market trading in the Senior Bonds. However, the Underwriter will not be obligated to effect a market in the Senior Bonds or purchase Senior Bonds upon request. It is not expected that an active trading market for the Senior Bonds will develop and, particularly because the Senior Bonds are unrated, liquidity of the Senior Bonds may be limited. Adverse developments, including insufficient cash flow from the Facilities, may have an unfavorable effect upon an Owner's ability to sell the Senior Bonds or the price for the Senior Bonds or both. Accordingly, a purchaser of the Senior Bonds should be prepared to have his or her funds committed for an indefinite period of time, possibly until the Senior Bonds mature or are redeemed.

### **Variable Interest Rate on Series 2005A Bonds**

The Series 2005A Bonds bear interest at a variable rate equal to the federal funds target rate (currently 4.0%) as it changes from time to time plus 3.25% (resulting in an initial rate on the Series 2005A Bonds of 7.25%), with no limit on how high the interest rate on the Series 2005A Bonds may increase. The Borrower is purchasing the Initial Interest Rate Cap which will limit or "cap" the maximum interest rate exposure of the Borrowers with respect to the Series 2005A Bonds to 9.25 % per annum during the five (5) year term of the Initial Interest Rate Cap. In addition, the Borrowers have covenanted in the Loan Agreement to either (1) maintain additional Replacement Interest Rate Caps through the 10<sup>th</sup> anniversary of the issuance of the Series 2005A Bonds on such terms as to project a Debt Service Coverage Ratio for each year of at least 1.25 or (2) refinance the Senior Bonds. However, the variable interest rate on the Series 2005A Bonds may increase to such a level that after the expiration of the Initial Interest Rate Cap and any Replacement Interest Rate Caps the Borrowers will be unable to generate sufficient revenues to pay debt service on the Senior Bonds. In addition, there can be no assurance that the

Borrowers will be able to obtain Replacement Interest Rate Caps or to refinance the Senior Bonds when required under the Loan Agreement.

### **Absence of Rating**

No rating of the creditworthiness of the Senior Bonds or the Borrowers has been requested. Further, due to the risks involved in an investment in the Senior Bonds, as further explained herein, it is unlikely that any rating considered to be “investment grade” by financial institutions could be presently obtained for the Senior Bonds or the Borrowers. Typically, unrated bonds lack liquidity in the secondary market in comparison with rated bonds. As a result of the foregoing, the Senior Bonds are believed to bear interest at higher rates than would prevail for bonds with comparable maturities and redemption provisions that have investment grade credit ratings. Nevertheless, the Senior Bonds should not be purchased by any investor who, because of financial condition, investment policies or otherwise, does not desire to assume or have the ability to bear the risks inherent in an investment in the Senior Bonds.

### **Management of the Facilities**

The Manager has managed The Home Place and Sanders Glen since their acquisition by the Seller in December 1996 and Morning Breeze since its acquisition by the Seller in August 2003. The Borrowers intend to retain the Manager to supervise the operation and management of the Facilities. See “THE MANAGER” above. While the Borrowers believe that the nature of the Facilities will not be adversely affected by the change in ownership from the Seller to the Borrowers, there can be no assurance that such change in ownership will not affect the nature or operation of the Facilities adversely. The Borrowers will be relying on the experience and expertise of the Manager to supervise the management and administration of the Facilities upon their acquisition by the Borrowers. No assurance can be given that the Manager will be able to successfully manage and operate the Facilities or that another experienced management company would be willing to undertake management of the Facilities under the terms required by the Indenture, the Loan Agreement and the Management Agreement should the need arise.

### **Working Capital**

The Borrowers are not acquiring cash or accounts receivable in connection with its purchase of the Facilities. The Borrowers will depend upon revenues derived from the operation of the Facilities and on the Line of Credit to fund the working capital needs of the Facilities. To the extent revenues derived from the operation of the Facilities and amounts available under the Line of Credit prove insufficient to meet the working capital needs of the Facilities, the Borrowers may need to obtain additional sources of working capital, including Short Term Indebtedness. In such event, there can be no assurance that the Borrowers will be able to obtain such additional working capital or obtain it on terms and conditions permitted by the Loan Agreement and the Indenture.

The Feasibility Study projects that the Line of Credit will be used in Fiscal Years ending December 31, 2005, after which it is projected that sufficient cash will be accumulated in the Operating Reserve Fund to provide for the liquidity needs of the Borrowers. After December 31, 2010 and provided amounts accumulated in the Facilities operating bank accounts and the Operating Reserve Fund equal 30 Days Cash-on-Hand, the Line of Credit shall be released. There can be no assurance, however, that the operations of the Facilities will generate cash at the levels projected in the Feasibility Study, that the Line of Credit will be repaid as projected in the Feasibility Study, or that the Borrowers will maintain cash at sufficient levels in the Facilities operating bank accounts and the Operating Reserve Fund to meet the liquidity requirements of the Facilities.

### **Line of Credit and Other Dependence on Manager’s Credit**

The Borrowers will be dependent on the Manager to make advances under the Line of Credit to fund the working capital needs of the Facilities. The obligations of the Manager to advance funds to the Borrowers under the Line of Credit will not exceed \$500,000. Any deterioration in the financial condition of the Manager could result in

the inability of the Manager to comply with its obligations under the Line of Credit. In such event there can be no assurances that the Borrowers will have adequate sources of working capital.

### **Government Regulation**

The Morning Breeze nursing beds and residential care beds are subject to compliance with various federal, state and local health care statutes and regulations. Compliance with state licensing requirements imposed on all health care facilities is a prerequisite for the operation of such portions of the Morning Breeze Facility and for participation in government-sponsored health care funding programs, such as Medicare and Medicaid. Medicaid is a medical assistance program for the indigent, operated by individual states with the financial participation of the federal government. Medicare is a health insurance program for the aged and certain other chronically disabled individuals, operated by the federal government. Changes in the reimbursement policies of such funding programs as a result of budget cuts by federal and state governments or other legislative and regulatory actions could have a material adverse effect on the Morning Breeze Borrower's financial position, results of operations and cash flows.

### **Third Party Reimbursement**

A significant portion of the patient service revenues of the Morning Breeze Nursing Section is derived from third party payors which reimburse or pay the Morning Breeze Nursing Section for the services it provides to patients covered by such third parties for such services, primarily Medicare and Medicaid. Together, Medicare and Medicaid provided 52% of the revenues and 27% of the average daily census of Morning Breeze for the ten months ended October 31, 2005. These programs make payments to the Morning Breeze Nursing Section at rates other than the direct charges of the Morning Breeze Nursing Section incurred in providing services to such patients. Accordingly, there can be no assurance that payments made under such programs will be adequate to cover the actual costs of the Morning Breeze Nursing Section. In addition, the financial performance of the Morning Breeze Nursing Section could be adversely affected by the insolvency of, or other delay in receipt of payments from, third-party payers which provide coverage for services to the patients of the Morning Breeze Nursing Section.

The Medicaid program in Indiana is jointly funded by the federal government and the State of Indiana and is administered by the State of Indiana. Because it is partially funded by, and its funding is administered through, the State of Indiana, the timing and amount of payments under the Medicaid program may be particularly affected by state budgetary constraints.

Significant changes have been and may continue to be made in third-party reimbursement programs which could have a material adverse effect on the operation of the Morning Breeze Nursing Section and the revenues of the Morning Breeze Borrower. Diverse and complex mechanisms to limit the amount of money paid to health care providers under both the Medicare and Medicaid programs have been enacted, and additional limitations may be enacted in the future.

Funds received from Medicare, Medicaid and some third-party payers may be subject to audit. These audits can result in retroactive adjustments of payments received. If, as a result of such audits, it is determined that overpayments of benefits were made, the excess amount must be repaid. If, on the other hand, it is determined that an underpayment was made, payers may make additional payments to the provider. The Morning Breeze Borrower expects to maintain reserves for possible adjustments at levels adequate to cover any adjustments.

### **Licensure**

The Home Place and Sanders Glen are not required in the State of Indiana to be licensed to operate independent living units and these two Facilities admit only residents who pay from private pay sources. Morning Breeze is licensed by the Indiana State Department of Health for 44 comprehensive care nursing beds and 31 residential care beds. The 18 independent living units at Morning Breeze are not required to be licensed. Morning Breeze admits residents to the nursing beds who pay from private, Medicare and Medicaid sources. Residents in the 31 residential care beds and 18 independent living units pay only from private pay sources. Failure to maintain the Morning Breeze licensure for the nursing and residential care beds may have a material adverse effect upon the Morning Breeze Borrower's ability to operate the Morning Breeze facility.

## **Competition**

The senior housing and nursing care industry is highly competitive. While the Borrowers believe the Facilities are unique providers of senior housing and nursing care services, there are competitive facilities in the service areas of the facilities. A listing of these competitors is included in the Feasibility Study attached hereto as APPENDIX B. No assurance can be given that other competitive facilities or services will not be established or that existing competitive facilities will not be expanded in the service areas of the Facilities in the future.

While the Borrowers and the Manager believe that the Facilities will be able to compete effectively within their service areas, there can be no guarantee that in the future the Facilities will be able to compete with other competitive facilities in the service areas of the Facilities. The Borrowers' costs and revenues could be substantially affected by future changes in the number and mix of both residents and services brought about by increased competition senior housing and nursing care providers. This competition could take several different forms, including:

- (a) Competition among nursing care facilities to sell their services more cheaply to third-party payers;
- (b) Competition among residential facilities resulting in lower rents in the service areas of the Facilities;
- (c) Competition from existing competitive facilities in the Borrowers' service areas to offer new services or expand existing services or to reduce charges;
- (d) Competition from other nursing homes, residential facilities, home health agencies, ambulatory care facilities, rehabilitation and therapy centers, and other nursing care providers and home health care providers for many services for which residents currently rely on nursing care facilities;
- (e) Competition for enrollees between traditional insurers, whose patients generally have a free choice of providers, and health maintenance organizations or other prepaid plans, which usually own their own skilled nursing care facilities or substantially restrict the providers from whom their enrollees can receive services; and
- (f) Competition from proprietary providers of skilled nursing care, the operations of which providers are not subject to the restrictions which are imposed on nonprofit skilled nursing care facilities by state nonprofit, tax-exemption and other laws, and which proprietary providers may have access to equity capital markets to obtain funds with which to compete which generally do not restrict the operational flexibility of such providers to the degree that the tax-exempt capital market restricts the operations of nonprofit skilled nursing borrowers.

## **Insurance**

In recent years the number of lawsuits, including malpractice lawsuits, and the dollar amount of recoveries from such lawsuits, have increased nationwide, resulting in increases of insurance premiums. In some areas of the country liability and malpractice insurance may not continue to be available, or it may only be available at such great cost as to render such insurance economically unavailable. Accordingly, although the Borrowers believe that the proposed coverage for the Facilities will be adequate, there can be no assurance that the Borrowers will continue to be adequately insured. To the extent that insurance overages maintained by the Borrowers are inadequate to cover judgments against them, the Borrowers will be forced to discharge such claims from their own funds. See APPENDIX E: -- "Definitions of Certain Terms and Summaries of Principal Documents; Summary of Certain Provisions of Loan Agreement; Insurance" for a description of the insurance coverage required with respect to the Borrowers and the Facilities.

## **Taxation of Nonprofit Organizations**

From time to time federal and state legislative bodies have examined and considered changing the laws relating to the taxation of nonprofit organizations. There can be no assurance that future federal or state changes in

the laws, rules, regulations and policies relating to the taxation of nonprofit organizations will not have a material adverse effect upon the revenues of the Borrowers.

### **Consequences of Changes in Tax Status of the Borrowers and American Eagle**

The tax-exempt status of the Borrowers is based in part on the tax-exempt status of American Eagle as the sole member of each of the Borrowers. In order for the Borrowers to maintain their tax-exempt status and to avoid treatment as private foundations, American Eagle and the Borrowers are subject to a number of requirements affecting their operations. Failure to satisfy these requirements, the possible modification or repeal of certain existing federal income tax laws, the change of Internal Revenue Service policies, the change of the method of operations, purposes or character of American Eagle or the Borrowers, failure to comply with state or local licensing requirements or other factors could result in the loss by American Eagle and the Borrowers of their status as an exempt organization under the Code. In recent years, the Internal Revenue Service has intensified its efforts to identify abusive and potentially abusive transactions involving the use of tax-exempt organizations and tax-exempt bonds, including the financing of nursing homes and residential facilities. The failure of the Borrowers to maintain their tax-exempt status could adversely affect the ability of the Borrowers to make payments under the Series 2005 Bonds sufficient to pay the debt service on the Series 2005 Bonds.

### **Failure to Obtain Real Estate Tax Exemption**

The Borrowers expect to obtain an exemption from the payment of real estate taxes with respect to the Facilities because of their tax-exempt status. Failure to obtain such an exemption and the payment of such real estate taxes by the Borrowers could adversely affect the financial condition of the Borrowers and their ability to pay the debt service on the Series 2005 Bonds.

### **Limitations on Use of Mortgaged Property**

As a result of the lack of alternative uses of the Facilities other than as senior housing and nursing care facilities in the event of a foreclosure on the Facilities pursuant to the Mortgages, the Trustee's remedies and the number of entities that would be interested in purchasing or leasing the Facilities may be limited. No assurance can be made that the amount realized upon any forced sale of the Facilities will be sufficient to pay and discharge the Series 2005 Bonds.

### **Other General Real Estate Risks**

There are many diverse risks involved in any investment in real estate, many of which are not within the Borrowers' control, which may have a substantial bearing on the ability of the Borrowers to generate revenues from the operation of the Facilities sufficient to pay debt service on the Senior Bonds. Such risks include possible adverse use of adjoining land, fires or other casualty, condemnation, increased taxes; changes in demand for such facilities, declines in the neighborhoods in which the Facilities are located and general economic conditions.

### **Termination of Management Agreement**

The Management Agreement provides for termination by the Borrowers or the Manager under certain circumstances. In the event of such termination there can be no assurance that the Borrowers will be able to retain another manager to serve as Manager on the terms required by the Indenture and the Loan Agreement.

### **Environmental Risks**

There are potential risks relating to liabilities for environmental hazards with respect to the ownership of any real property. If hazardous substances are found to be located on property, holders of such property may be held liable for costs and other liabilities related to the removal of such substances, which costs and liabilities could exceed the value of the property. In connection with its acquisition of the Facilities, the Borrowers have obtained and reviewed a Phase I Environmental Assessment prepared by Tetra Tech, Inc. for each of the Facilities. The Environmental Assessments did not identify any recognized environmental conditions at the facilities except the

following with respect to Sanders Glen: (i) an above ground storage tank containing elevator hydraulic oil located in a mechanical room with no secondary containment; concern was expressed that a release or spill of oil may enter the floor drain in the mechanical room; and (ii) a house and an outbuilding previously located on the site of the Facility was demolished in 2003 and information documenting the removal and disposal of materials was not available; concern was expressed that the potential exist for hazardous substances to be present in the demolition area. The condition described in (i) above shall be corrected by the installation of a \$350 containment berm around the storage tank as part of the repairs and equipment replacements funded by the Series 2005 Bonds. As to the condition described in (ii) above, following the recommendation of Tetra Tech, Inc., test borings were performed at the site where the house and outbuilding were formerly located, which borings showed no exceeding of permitted levels of hazardous substances, and no further action was recommended. .

Neither the Borrowers nor the Manager is aware of any pending or threatened enforcement actions with respect to any release of pollutants or contaminants by or at any of the Facilities, nor have the limited Environmental Assessments for the Facilities disclosed such a proceeding. However, there can be no assurance that an enforcement action or actions will not be instituted under such statutes at a future date. In the event such enforcement actions were initiated, the Borrowers could be liable for the costs of removing or otherwise treating pollutants or contaminants located at the Facilities. In addition, under applicable environmental statutes, in the event an enforcement action were initiated, a lien could attach to the Facilities, which would adversely affect the Borrowers' ability to generate revenues from the operation of the Facilities sufficient to meet the debt service requirements on the Series 2005 Bonds and its obligations under the Loan Agreement.

No assurance can be given that the Environmental Assessments revealed all potential environmental concerns, that any prior owner or tenant did not create any adverse environmental condition not known to the Borrowers, that no environmental liabilities have developed since the Environmental Assessments were prepared, that future laws or regulations will not impose material environmental requirements or liability or that a material adverse environmental condition does not otherwise exist.

### **Grant of Security Interest in Future Revenues**

Pursuant to the Mortgages, the Borrowers have granted to the Trustee a security interest in the Gross Revenues of the Facilities. Certain interests and claims of others may be on a parity with or prior to the grant of a security interest such Gross Revenues made in the Mortgages (including prior liens permitted to be granted on the Borrowers' accounts receivable to secure Short Term Indebtedness incurred for working capital purposes pursuant to the Loan Agreement), and certain statutes and other provisions may limit the Borrowers' right to make such grants of security interests.

In addition, the security interest of the Trustee in the Gross Revenues may not be enforceable against third parties unless the cash proceeds of the Gross Revenues are actually transferred to the Trustee.

### **Enforceability of Remedies; Bankruptcy**

The Senior Bonds are payable from the sources of payment and security described in "SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS" herein. The practical realization of value from the collateral described in "SECURITY AND SOURCES OF PAYMENT FOR THE SENIOR BONDS" herein upon any default will depend upon the exercise of various remedies specified by the Indenture, the Mortgages and the Loan Agreement. These and other remedies may, in many respects, require judicial actions, which are often subject to discretion and delay. Under existing law, the remedies specified by the Indenture, the Mortgages and the Loan Agreement may not be readily available or may be limited. A court may decide not to order the specific performance of the covenants contained in those documents. The various legal opinions to be delivered concurrently with the delivery of the Series 2005 Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by state and federal laws, rulings and decisions affecting remedies and by bankruptcy, reorganization or other laws affecting the enforcement of creditors' rights generally.

The rights and remedies of the Owners of the Senior Bonds are subject to various provisions of the Federal Bankruptcy Code. If the Borrowers were to file a petition for relief (or if a petition were filed against the Borrowers) under the Federal Bankruptcy Code, the filing would operate as an automatic stay of the commencement

or continuation of any judicial or other proceeding against the Borrowers and their property, including the commencement of a foreclosure proceeding under the Mortgages. In addition, upon the filing of such a petition, the security interest in Gross Revenues may not be effective as to accounts receivable acquired after (or, under certain conditions, prior to) the filing. If the bankruptcy court so ordered, the Borrowers' property, including their accounts receivable and proceeds thereof, could be used for the benefit of the Borrowers despite the claims of its creditors.

A Borrower could file a plan for the adjustment of its debts in a proceeding under the Federal Bankruptcy Code which could include provisions modifying or altering the rights of creditors generally, or any class of them, secured or unsecured. The plan, when confirmed by the court, would bind all creditors who have notice or knowledge of the plan and would discharge all claims against the debtor provided for in the plan. No plan may be confirmed unless certain conditions are met, among which are that the plan is in the best interests of creditors, is feasible and has been accepted by each class of claims impaired thereunder. Each class of claims has accepted the plan if at least two-thirds in dollar amount and more than one-half in number of the allowed claims of the class that are voted with respect to the plan are cast in its favor. Even if the plan is not so accepted, it may be confirmed if the court finds that the plan is fair and equitable with respect to each class of non-accepting creditors impaired thereunder and does not discriminate unfairly.

### **Feasibility Study; Forecasted Financial Results; Sensitivity Analysis Letter**

The Financial Forecast included in the Feasibility Study and the Sensitivity Analysis Letter are based upon assumptions made by Manager and the Borrowers. As stated in the Financial Forecast, there usually will be differences between the forecasted and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material and adverse. In addition, such financial forecast was prepared for the two month period ending December 31, 2005 and the years ending December 31, 2006 through December 31, 2010 and consequently does not cover the entire period during which the Senior Bonds may be outstanding. See the Feasibility Study, which includes the Financial Forecast, and the Sensitivity Analysis Letter, both of which are included in APPENDIX B and each of which should be read in its entirety.

BECAUSE THERE IS NO ASSURANCE THAT ACTUAL EVENTS WILL CORRESPOND WITH THE ASSUMPTIONS MADE, NO GUARANTEE CAN BE MADE THAT THE FINANCIAL FORECAST WILL CORRESPOND WITH THE RESULTS ACTUALLY ACHIEVED IN THE FUTURE. ACTUAL OPERATING RESULTS MAY BE AFFECTED BY MANY UNCONTROLLABLE FACTORS, INCLUDING BUT NOT LIMITED TO INCREASED COSTS, LOWER THAN ANTICIPATED OCCUPANCY AND REVENUES, EMPLOYEE RELATIONS, TAXES, GOVERNMENTAL CONTROLS, CHANGES IN APPLICABLE GOVERNMENTAL REGULATIONS, CHANGES IN DEMOGRAPHIC TRENDS, CHANGES IN THE NURSING HOME AND SENIOR HOUSING INDUSTRIES AND GENERAL ECONOMIC CONDITIONS.

### **Possible Staffing Shortages**

In recent years, the health care and senior housing industries have suffered from an increasing scarcity of skilled health care personnel. Factors underlying this trend include a decrease in the number of persons entering the health care profession and an increase in the proportion of the elderly population to the total population. Any of these factors may be expected to intensify in the future, aggravating the shortage of personnel and increasing competition for retention of such personnel. This trend could force the Borrowers to pay higher than anticipated wages and benefits to personnel for the Facilities as competition for such employees intensifies. Such higher wages and benefits could adversely affect the results of financial operations of the Facilities.

### **Energy Shortages and Allocations**

Recently there have been fairly large nation-wide increases in the cost of fuel, natural gas and electric power because of the effect of Hurricanes "Katrina" and "Rita" and continued unrest and armed conflicts in the Middle East. In addition there may be energy shortages, additional increases in energy costs or changes in allocations by suppliers or governmental regulatory bodies in the area of the Facilities. In the event such shortages, price increases or allocations occur, the operation of the Facilities may be adversely affected. The Borrowers are unable to predict at this time the extent, if any, to which such shortages, price increases or allocations will occur or the degree to which such events will adversely affect the financial condition of the Borrowers.



### **Additional Risk Factors Affecting Facilities**

The following additional factors, among others, may affect the operations and financial condition of the Borrowers and the Facilities to an extent which cannot be determined at this time:

- (a) reduced demand for the services offered at the Facilities that might result from future medical and scientific advances and/or from decreases in population or other unfavorable demographic changes;
- (b) increased unemployment or other adverse economic conditions which would increase the proportion of residents who are unable to pay fully for the cost of their housing and care;
- (c) any requirement that a certain amount of indigent care must be provided in order to maintain the charitable status of tax-exempt organizations such as the Borrowers;
- (d) efforts by insurers and governmental agencies to limit the cost of long term care services, to reduce the number of beds and to reduce the utilization of facilities such as the Facilities;
- (e) regulatory action which might limit the ability of the Borrowers to undertake capital improvements to their facilities or to develop new services;
- (f) reinstatement or establishment of mandatory governmental wage, rent or price controls;
- (g) inability to control increases in operating costs, including salaries, wages and fringe benefits, supplies and other expenses, given an inability to obtain corresponding increases in revenues from residents whose incomes will largely be fixed;
- (h) adoption of federal, state or local legislation or regulations having an adverse effect on the future operating or financing performance of the Borrowers;
- (i) increases in utility costs;
- (j) the occurrence of a natural disaster, including floods, hurricanes, or tornadoes, which might damage the Facilities or impair the ability of the Facilities to generate revenues;
- (k) the enactment of a national health insurance program or changes in federal or state laws relating to health care and/or social security;
- (l) the imposition of new taxes on nonprofit corporations; and
- (m) adoption of federal or state legislation or regulations restructuring or expanding fraud and abuse restrictions under the Medicare or Medicaid programs.

### **Determination of Taxability**

Failure by the Borrowers or the Authority to comply with certain tax covenants, including the failure to rent at least 20% of the residential units at each of the Facilities which are financed through the Series 2005A Bonds and the Subordinate Bonds to tenants whose income is less than 50% of area median income, could cause interest on the Series 2005A Bonds and the Series 2005C Bonds to lose the exclusion from gross income for federal income tax purposes. Upon a Determination of Taxability, and at the election of Owners of 25% of Senior Bonds Outstanding, the Senior Bonds are subject to acceleration with an Acceleration Premium equal to 5% of the principal amount of Senior Bonds Outstanding if such Determination of Taxability. See "THE SENIOR BONDS - Acceleration."

The Senior Bonds are not subject to acceleration upon a Determination of Taxability until there has been a Determination of Taxability, and at least 25% of the Owners of the Senior Bonds have requested such redemption. It is possible that a period of time may elapse between the occurrence of the breach of a tax covenant and the actual determination that such breach has occurred resulting in a Determination of Taxability, in which case interest previously paid on the Senior Bonds could be taxable retroactively to as early as the date of their issuance even though during that period of time the Senior Bonds bore interest at the market rate provided for therein on the assumption that interest was tax-exempt. No assurances can be given that the premium paid in such event will adequately compensate an Owner for all adverse consequences resulting from a Determination of Taxability or that the Borrowers will be capable of paying the full Acceleration Premium for the Senior Bonds.

## **Summary**

The foregoing is intended only as a summary of certain risk factors attendant to an investment in the Senior Bonds. An investment in the Senior Bonds involves a substantial element of risk and is speculative in nature. The relatively high interest rate borne by the Senior Bonds (as compared to prevailing interest rates on more secure tax-exempt bonds such as those which constitute general obligations of fiscally sound municipalities or states) is intended to serve as compensation to the investor for assuming this element of risk. In order to identify risk factors and make an informed investment decision, potential investors should be thoroughly familiar with this entire Official Statement (including the Appendices hereto) and the Feasibility Study and Sensitivity Analysis Letter in order to make a judgment as to whether the Senior Bonds are an appropriate investment. Purchasers of the Senior Bonds, particularly purchasers that are corporations (including subchapter S corporations and foreign corporations operating branches in the United States of America), property or casualty insurance companies, banks, thrifts or other financial institutions or certain recipients of Social Security benefits, are advised to consult their tax advisors as to the tax consequences of purchasing or holding the Senior Bonds. See "TAX MATTERS" herein.

## **LITIGATION**

### **The Authority**

To the knowledge of the Authority, there is not now pending or threatened any litigation restraining or enjoining the issuance or delivery of the Series 2005 Bonds or questioning or affecting the validity of the Series 2005 Bonds or the proceedings or authority under which they are to be issued. Neither the creation, organization or existence of the Authority nor the entitlement of any of the present members or other officials of the Authority to their respective offices is being contested. To the knowledge of the Authority, there is no litigation pending or threatened, which in any manner questions the right of the Authority to enter into the Indenture or the Loan Agreement or to secure the Series 2005 Bonds in the manner provided in the Indenture and the Act.

### **The Borrowers**

The Borrowers have advised that no litigation or proceedings are pending or, to their knowledge, threatened against it or which would affect or bind the assets comprising the Facilities or impair their ability to acquire, own and operate the Facilities.

### **The Manager**

The Manager has advised that no litigation or proceedings are pending or, to its knowledge, threatened against it or which would affect or impair its ability to manage the Facilities in accordance with the Management Agreement or that would otherwise affect or bind the assets comprising the Facilities.

## **LEGAL MATTERS**

Certain legal matters incident to the authorization and issuance of the Series 2005 Bonds by the Authority are subject to the approval of Barnes & Thornburg LLP, South Bend, Indiana, Bond Counsel. Certain legal matters will be passed upon for the Authority by the Attorney General of the State of Indiana, Indianapolis, Indiana, for the Borrowers by their counsel, Boulton Cummings Connors & Berry PLC, and by its special local counsel, Hall, Render,

Killian, Heath & Lyman, PSC, Indianapolis, Indiana, and for the Underwriter, by its counsel, DLA Piper Rudnick Gray Cary, LLP, New York, New York.

## **TAX MATTERS**

### **Series 2005A Bonds**

In the opinion of Barnes & Thornburg LLP, South Bend, Indiana, Bond Counsel, under existing law, interest on the Series 2005A Bonds is excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended and in effect on the date of issuance of the Series 2005A Bonds (the “Code”). This opinion relates only to the exclusion from gross income of interest on the Series 2005A Bonds for federal income tax purposes under Section 103 of the Code. The opinion of Barnes & Thornburg LLP is based on certain certifications, covenants and representations of the Authority and the Borrowers, and is conditioned on continuing compliance therewith. In the opinion of Barnes & Thornburg LLP, South Bend, Indiana, Bond Counsel, under existing law, interest on the Series 2005A Bonds is exempt from income taxation in the State of Indiana for all purposes except the State financial institutions tax. See Appendix F for the form of Bond Counsel opinion.

The Code imposes certain requirements which must be met subsequent to the issuance of the Series 2005A Bonds as a condition to the exclusion from gross income of interest on the Series 2005A Bonds for federal tax purposes. Noncompliance with such requirements may cause interest on the Series 2005A Bonds to be included in gross income for federal tax purposes retroactive to the date of issue, regardless of the date on which noncompliance occurs. Should the Series 2005A Bonds bear interest that is not excluded from gross income for federal income tax purposes, the market value of the Series 2005A Bonds would be materially and adversely affected. It is not an event of default if interest on the Series 2005A Bonds is not excludable from gross income for federal tax purposes pursuant to any provision of the Code which is not in effect on the date of issuance of the Series 2005A Bonds.

Interest on the Series 2005A Bonds is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, interest on the Series 2005A Bonds is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations.

The Series 2005A Bonds are *not* qualified tax-exempt obligations for purposes of Section 265(b)(3) of the Code.

Indiana Code 6-5.5 imposes a franchise tax on certain taxpayers (as defined in Indiana Code 6-5.5) which, in general, includes all corporations which are transacting the business of a financial institution in Indiana. The franchise tax is measured in part by interest excluded from gross income under Section 103 of the Code minus associated expenses disallowed under Section 265 of the Code.

Although Bond Counsel will render an opinion that interest on the Series 2005A Bonds is excludable from gross income for federal tax purposes and exempt from State income tax, the accrual or receipt of interest on the Series 2005A Bonds may otherwise affect an owner’s federal or state tax liability. The nature and extent of these other tax consequences will depend upon the owner’s particular tax status and the owner’s other items of income or deduction. Bond Counsel expresses no opinion regarding any other such tax consequences. Prospective purchasers of the Series 2005A Bonds should consult their own tax advisors with respect to the other tax consequences of owning the Series 2005A Bonds.

The foregoing does not purport to be a comprehensive description of all of the tax consequences of owning the Series 2005A Bonds. Prospective purchasers of the Series 2005A Bonds should consult their own tax advisors with respect to the foregoing and other tax consequences of owning the Series 2005A Bonds.

### **Series 2005B Bonds**

Interest on the Series 2005B Bonds is *not* excludable from gross income for federal income tax purposes.

In the opinion of Barnes & Thornburg LLP, South Bend, Indiana, Bond Counsel, under existing law, interest on the Series 2005B Bonds is exempt from income taxation in the State of Indiana for all purposes except the State financial institutions tax. See Appendix F for the form of Bond Counsel opinion.

Although Bond Counsel will render an opinion that interest on the Series 2005B Bonds is exempt from State income tax, the accrual or receipt of interest on the Series 2005B Bonds may otherwise affect an owner's federal or state tax liability. The nature and extent of these other tax consequences will depend upon the owner's particular tax status and the owner's other items of income or deduction. Bond Counsel expresses no opinion regarding any other such tax consequences. Prospective purchasers of the Series 2005B Bonds should consult their own tax advisors with respect to the other tax consequences of owning the Series 2005B Bonds.

The foregoing does not purport to be a comprehensive description of all of the tax consequences of owning the Series 2005B Bonds. Prospective purchasers of the Series 2005B Bonds should consult their own tax advisors with respect to the foregoing and other tax consequences of owning the Series 2005B Bonds.

### **UNDERWRITING**

The Senior Bonds are being purchased by The GMS Group, L.L.C. (the "Underwriter"). The Underwriter has agreed to purchase the Senior Bonds at an aggregate discount of \$277,100 from the initial offering prices set forth on the cover page plus expenses of \$10,600. The Underwriter may offer and sell the Senior Bonds to certain dealers (including dealers depositing Senior Bonds into investment trusts) and others at prices lower (or yields higher) than the public offering prices (or yields) stated on the cover page hereof, which may be changed after the initial offering by the Underwriter. The contract of purchase provides that the Underwriter will purchase all the Senior Bonds, if any are purchased, and requires the Borrowers and the Manager to indemnify the Underwriter and the Authority against losses, claims, damages and liabilities arising out of any statement or information contained in this Official Statement pertaining to the Borrowers, the Manager, the Facilities or the Project that is incorrect in any material respect.

The Underwriter is not purchasing the Subordinate Bonds. The Authority is issuing the Subordinate Bonds directly to the Seller in payment of a portion of the Purchase Price for the facilities under the Purchase Agreement.

### **NO BOND RATINGS**

No ratings have been requested for the Senior Bonds.

### **CONTINUING DISCLOSURE**

In order to satisfy the requirements of Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission, the Borrowers and Trustee will enter into a Continuing Disclosure Agreement for the benefit of the Owners of the Senior Bonds. Pursuant to such agreement, the Borrowers will covenant to provide, through a dissemination agent, to each nationally recognized municipal securities information repository and to the Indiana state information depository, if and when established, certain annual financial information and operating data, including compiled, but not audited, financial statements. The Borrowers will covenant to provide such information for a fiscal year within 150 days following the end of such fiscal year, commencing with the fiscal year ending December 31, 2005. The Borrowers will covenant to provide notice in a timely manner to each nationally recognized municipal securities information repository or to the Municipal Securities Rulemaking Board (the "MSRB") and to the Indiana state information depository of a failure of the Borrowers to provide the required annual financial information on or before the date specified in the Continuing Disclosure Agreement.

In the Continuing Disclosure Agreement, the Borrowers will also covenant to provide, in a timely manner, to each nationally recognized municipal securities information repository or to the MSRB and to the Indiana state information depository notice of the occurrence of any of the following events with respect to the Senior Bonds, if such event is material: (1) principal and interest payment delinquencies; (2) non-payment related defaults; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit

enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions or events affecting the tax-exempt status of the Senior Bonds; (7) modifications to the rights of holders of the Senior Bonds; (8) bond calls; (9) defeasances; (10) release, substitution or sale of property securing repayment of the Senior Bonds; and (11) rating changes.

The Borrowers' obligations to provide the foregoing annual financial information and operating data and notices of the specified events when material will terminate when the Senior Bonds have been fully paid or legally defeased. The undertaking of the Borrowers under the Continuing Disclosure Agreement may be amended only if: (a) the amendment may only be made in connection with a change in circumstances arising from a change in legal requirements, change in law or a change in the identity, nature or status of the obligated person or type of business conducted; (b) the undertaking, as amended, would have complied with the Rule at the time of the primary offering of the Senior Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and (c) the amendment does not materially impair the interest of the holders of the Senior Bonds, as determined by parties unaffiliated with the Borrowers (which may include Bond Counsel) or by the approving vote of the holders of the Senior Bonds. If an amendment has been made, the next annual disclosure report will explain the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

Under the Continuing Disclosure Agreement, the sole remedy for a breach or default by the Borrowers of their covenants to provide annual financial and operating information and notices will be an action to compel specific performance.. A breach or default under the Continuing Disclosure Agreement will not be deemed an event of default under the Senior Bonds.

#### **MISCELLANEOUS**

The references to the Act, the Indenture, the Senior Bonds, the Subordinate Bonds, the Loan Agreement, the Mortgages, the Purchase Agreement, the Feasibility Study, the Sensitivity Analysis Letter, the Initial Interest Rate Cap, the Line of Credit and the Appraisals are brief outlines of certain provisions thereof. Such outlines do not purport to be complete and for full and complete statements of the provisions thereof reference is made to the specific provisions thereof. Copies of such documents may be obtained upon request prior to the issuance of the Senior Bonds from the Underwriter and following delivery of the Senior Bonds will be on file and available for inspection at the offices of the Trustee.

The agreement of the Authority with the holders of the Senior Bonds is fully set forth in the Indenture, and neither any advertisement of the Senior Bonds nor this Official Statement is to be construed as constituting an agreement with the purchasers of the Senior Bonds. So far as any statements are made in this Official Statement involving estimates, projections or matters of opinion, whether or not expressly so stated, they are intended merely as such and not as representations of fact.

The attached Appendices are integral parts of this Official Statement and must be read together with all of the foregoing statements.

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The delivery of this Official Statement has been duly authorized by the Authority and the Borrowers.

INDIANA HEALTH AND EDUCATIONAL FACILITY  
FINANCING AUTHORITY

By: /s/ Ryan C. Kitchell  
*Vice Chair*

Approved:

AMERICAN EAGLE HOME PLACE, LLC  
AMERICAN EAGLE SANDERS GLEN, LLC  
AMERICAN EAGLE MORNING BREEZE, LLC

By: AMERICAN EAGLE LIFECARE CORPORATION, their sole member

By: /s/ F. Scott Kellman  
*President*

## **APPENDIX A**

### **ANNUAL DEBT SERVICE REQUIREMENTS**

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**ANNUAL DEBT SERVICE REQUIREMENTS \***  
**INDIANA HEALTH AND EDUCATIONAL FACILITY FINANCING AUTHORITY**  
**Tax-Exempt Senior Health Care Revenue Bonds, Series 2005A**  
**(American Eagle LifeCare Project)**

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
1/1/2006					
7/1/2006			597,159.44	597,159.44	
1/1/2007	5,000	9.250%	514,300.00	519,300.00	1,116,459.44
7/1/2007			514,068.75	514,068.75	
1/1/2008	85,000	9.250%	514,068.75	599,068.75	1,113,137.50
7/1/2008			510,137.50	510,137.50	
1/1/2009	95,000	9.250%	510,137.50	605,137.50	1,115,275.00
7/1/2009			505,743.75	505,743.75	
1/1/2010	105,000	9.250%	505,743.75	610,743.75	1,116,487.50
7/1/2010			500,887.50	500,887.50	
1/1/2011	110,000	9.250%	500,887.50	610,887.50	1,111,775.00
7/1/2011			495,800.00	495,800.00	
1/1/2012	120,000	9.250%	495,800.00	615,800.00	1,111,600.00
7/1/2012			490,250.00	490,250.00	
1/1/2013	135,000	9.250%	490,250.00	625,250.00	1,115,500.00
7/1/2013			484,006.25	484,006.25	
1/1/2014	145,000	9.250%	484,006.25	629,006.25	1,113,012.50
7/1/2014			477,300.00	477,300.00	
1/1/2015	160,000	9.250%	477,300.00	637,300.00	1,114,600.00
7/1/2015			469,900.00	469,900.00	
1/1/2016	175,000	9.250%	469,900.00	644,900.00	1,114,800.00
7/1/2016			461,806.25	461,806.25	
1/1/2017	190,000	9.250%	461,806.25	651,806.25	1,113,612.50
7/1/2017			453,018.75	453,018.75	
1/1/2018	210,000	9.250%	453,018.75	663,018.75	1,116,037.50
7/1/2018			443,306.25	443,306.25	
1/1/2019	225,000	9.250%	443,306.25	668,306.25	1,111,612.50
7/1/2019			432,900.00	432,900.00	
1/1/2020	250,000	9.250%	432,900.00	682,900.00	1,115,800.00
7/1/2020			421,337.50	421,337.50	
1/1/2021	270,000	9.250%	421,337.50	691,337.50	1,112,675.00
7/1/2021			408,850.00	408,850.00	
1/1/2022	295,000	9.250%	408,850.00	703,850.00	1,112,700.00
7/1/2022			395,206.25	395,206.25	
1/1/2023	325,000	9.250%	395,206.25	720,206.25	1,115,412.50
7/1/2023			380,175.00	380,175.00	
1/1/2024	350,000	9.250%	380,175.00	730,175.00	1,110,350.00
7/1/2024			363,987.50	363,987.50	
1/1/2025	385,000	9.250%	363,987.50	748,987.50	1,112,975.00
7/1/2025			346,181.25	346,181.25	
1/1/2026	420,000	9.250%	346,181.25	766,181.25	1,112,362.50
7/1/2026			326,756.25	326,756.25	
1/1/2027	460,000	9.250%	326,756.25	786,756.25	1,113,512.50
7/1/2027			305,481.25	305,481.25	
1/1/2028	500,000	9.250%	305,481.25	805,481.25	1,110,962.50
7/1/2028			282,356.25	282,356.25	
1/1/2029	550,000	9.250%	282,356.25	832,356.25	1,114,712.50
7/1/2029			256,918.75	256,918.75	
1/1/2030	600,000	9.250%	256,918.75	856,918.75	1,113,837.50
7/1/2030			229,168.75	229,168.75	
1/1/2031	655,000	9.250%	229,168.75	884,168.75	1,113,337.50
7/1/2031			198,875.00	198,875.00	
1/1/2032	715,000	9.250%	198,875.00	913,875.00	1,112,750.00
7/1/2032			165,806.25	165,806.25	
1/1/2033	780,000	9.250%	165,806.25	945,806.25	1,111,612.50
7/1/2033			129,731.25	129,731.25	
1/1/2034	855,000	9.250%	129,731.25	984,731.25	1,114,462.50
7/1/2034			90,187.50	90,187.50	
1/1/2035	930,000	9.250%	90,187.50	1,020,187.50	1,110,375.00
7/1/2035			47,175.00	47,175.00	
1/1/2036	1,020,000	9.250%	47,175.00	1,067,175.00	1,114,350.00
	11,120,000		22,286,096.94	33,406,096.94	33,406,096.94

\* This table assumes an annual interest rate on the Series 2005A Bonds of 9.25%; the actual annual debt service requirements will depend on the actual rate of interest applicable to the variable rate Series 2005A Bonds from time to time.

**ANNUAL DEBT SERVICE REQUIREMENTS**  
**INDIANA HEALTH AND EDUCATIONAL FACILITY FINANCING AUTHORITY**  
**Taxable Senior Health Care Revenue Bonds, Series 2005B**  
**(American Eagle LifeCare Project)**

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
1/1/2006					
7/1/2006			146,873.30	146,873.30	
1/1/2007	5,000	9.250%	126,493.75	131,493.75	278,367.05
7/1/2007			126,262.50	126,262.50	
1/1/2008	20,000	9.250%	126,262.50	146,262.50	272,525.00
7/1/2008			125,337.50	125,337.50	
1/1/2009	25,000	9.250%	125,337.50	150,337.50	275,675.00
7/1/2009			124,181.25	124,181.25	
1/1/2010	25,000	9.250%	124,181.25	149,181.25	273,362.50
7/1/2010			123,025.00	123,025.00	
1/1/2011	30,000	9.250%	123,025.00	153,025.00	276,050.00
7/1/2011			121,637.50	121,637.50	
1/1/2012	30,000	9.250%	121,637.50	151,637.50	273,275.00
7/1/2012			120,250.00	120,250.00	
1/1/2013	35,000	9.250%	120,250.00	155,250.00	275,500.00
7/1/2013			118,631.25	118,631.25	
1/1/2014	35,000	9.250%	118,631.25	153,631.25	272,262.50
7/1/2014			117,012.50	117,012.50	
1/1/2015	40,000	9.250%	117,012.50	157,012.50	274,025.00
7/1/2015			115,162.50	115,162.50	
1/1/2016	45,000	9.250%	115,162.50	160,162.50	275,325.00
7/1/2016			113,081.25	113,081.25	
1/1/2017	45,000	9.250%	113,081.25	158,081.25	271,162.50
7/1/2017			111,000.00	111,000.00	
1/1/2018	50,000	9.250%	111,000.00	161,000.00	272,000.00
7/1/2018			108,687.50	108,687.50	
1/1/2019	55,000	9.250%	108,687.50	163,687.50	272,375.00
7/1/2019			106,143.75	106,143.75	
1/1/2020	60,000	9.250%	106,143.75	166,143.75	272,287.50
7/1/2020			103,368.75	103,368.75	
1/1/2021	65,000	9.250%	103,368.75	168,368.75	271,737.50
7/1/2021			100,362.50	100,362.50	
1/1/2022	70,000	9.250%	100,362.50	170,362.50	270,725.00
7/1/2022			97,125.00	97,125.00	
1/1/2023	80,000	9.250%	97,125.00	177,125.00	274,250.00
7/1/2023			93,425.00	93,425.00	
1/1/2024	85,000	9.250%	93,425.00	178,425.00	271,850.00
7/1/2024			89,493.75	89,493.75	
1/1/2025	95,000	9.250%	89,493.75	184,493.75	273,987.50
7/1/2025			85,100.00	85,100.00	
1/1/2026	105,000	9.250%	85,100.00	190,100.00	275,200.00
7/1/2026			80,243.75	80,243.75	
1/1/2027	115,000	9.250%	80,243.75	195,243.75	275,487.50
7/1/2027			74,925.00	74,925.00	
1/1/2028	125,000	9.250%	74,925.00	199,925.00	274,850.00
7/1/2028			69,143.75	69,143.75	
1/1/2029	135,000	9.250%	69,143.75	204,143.75	273,287.50
7/1/2029			62,900.00	62,900.00	
1/1/2030	145,000	9.250%	62,900.00	207,900.00	270,800.00
7/1/2030			56,193.75	56,193.75	
1/1/2031	160,000	9.250%	56,193.75	216,193.75	272,387.50
7/1/2031			48,793.75	48,793.75	
1/1/2032	175,000	9.250%	48,793.75	223,793.75	272,587.50
7/1/2032			40,700.00	40,700.00	
1/1/2033	190,000	9.250%	40,700.00	230,700.00	271,400.00
7/1/2033			31,912.50	31,912.50	
1/1/2034	210,000	9.250%	31,912.50	241,912.50	273,825.00
7/1/2034			22,200.00	22,200.00	
1/1/2035	230,000	9.250%	22,200.00	252,200.00	274,400.00
7/1/2035			11,562.50	11,562.50	
1/1/2036	250,000	9.250%	11,562.50	261,562.50	273,125.00
	2,735,000		5,469,092.05	8,204,092.05	8,204,092.05

**ANNUAL DEBT SERVICE REQUIREMENTS \***  
**INDIANA HEALTH AND EDUCATIONAL FACILITY FINANCING AUTHORITY**  
**Tax-Exempt Subordinate Health Care Revenue Bonds, Series 2005C**  
**(American Eagle LifeCare Project)**

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
1/1/2006					
7/1/2006			157,664.38	157,664.38	
1/1/2007			135,787.50	135,787.50	293,451.88
7/1/2007			135,787.50	135,787.50	
1/1/2008			135,787.50	135,787.50	271,575.00
7/1/2008			135,787.50	135,787.50	
1/1/2009			135,787.50	135,787.50	271,575.00
7/1/2009			135,787.50	135,787.50	
1/1/2010			135,787.50	135,787.50	271,575.00
7/1/2010			135,787.50	135,787.50	
1/1/2011			135,787.50	135,787.50	271,575.00
7/1/2011			135,787.50	135,787.50	
1/1/2012			135,787.50	135,787.50	271,575.00
7/1/2012			135,787.50	135,787.50	
1/1/2013			135,787.50	135,787.50	271,575.00
7/1/2013			135,787.50	135,787.50	
1/1/2014			135,787.50	135,787.50	271,575.00
7/1/2014			135,787.50	135,787.50	
1/1/2015			135,787.50	135,787.50	271,575.00
7/1/2015			135,787.50	135,787.50	
1/1/2016			135,787.50	135,787.50	271,575.00
7/1/2016			135,787.50	135,787.50	
1/1/2017			135,787.50	135,787.50	271,575.00
7/1/2017			135,787.50	135,787.50	
1/1/2018			135,787.50	135,787.50	271,575.00
7/1/2018			135,787.50	135,787.50	
1/1/2019			135,787.50	135,787.50	271,575.00
7/1/2019			135,787.50	135,787.50	
1/1/2020			135,787.50	135,787.50	271,575.00
7/1/2020			135,787.50	135,787.50	
1/1/2021			135,787.50	135,787.50	271,575.00
7/1/2021			135,787.50	135,787.50	
1/1/2022			135,787.50	135,787.50	271,575.00
7/1/2022			135,787.50	135,787.50	
1/1/2023			135,787.50	135,787.50	271,575.00
7/1/2023			135,787.50	135,787.50	
1/1/2024			135,787.50	135,787.50	271,575.00
7/1/2024			135,787.50	135,787.50	
1/1/2025			135,787.50	135,787.50	271,575.00
7/1/2025			135,787.50	135,787.50	
1/1/2026	3,195,000	8.500%	135,787.50	3,330,787.50	3,466,575.00
	3,195,000		5,453,376.88	8,648,376.88	8,648,376.88

\* This table assumes that only interest is paid on the Series 2005C Bonds until maturity; the actual annual debt service payments on the Series 2005C Bonds will depend on whether any of the Series 2005C Bonds are redeemed with excess revenues prior to maturity.

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**APPENDIX B**  
**SENSITIVITY ANALYSIS LETTER**  
**AND**  
**FEASIBILITY STUDY**

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Crowe Chizek and Company LLC  
Member Horwath International

330 East Jefferson Boulevard  
Post Office Box 7  
South Bend, Indiana 46624-0007  
Tel 574.232.3992  
Fax 574.236.8692  
www.crowechizek.com

November 28, 2005

Board of Directors  
American Eagle LifeCare Corporation  
Nashville, Tennessee

RE: Acquisition of The Home Place, Sanders Glen, and Morning Breeze

Crowe Chizek has been informed that purchasers of bonds for the above transaction have been identified by The GMS Group. It is Crowe Chizek's understanding that the purchaser of the Series A Bonds is requiring the interest rate be variable rather than the fixed rate of 7.25%, while the Series B Bonds have been negotiated at a rate of 9.25%, which is a reduction from the 9.5% utilized in the assumptions for the feasibility study prepared by Crowe Chizek.

Management has informed Crowe Chizek that they intend to purchase an interest rate cap at 9.25% for the Series A Bonds to mitigate the interest rate risk related to the transaction. Using the assumption that the cap of 9.25% for the Series A Bonds will be incurred during the period of the financial feasibility and a 9.25% interest rate on the Series B Bonds, Crowe Chizek has recomputed the Debt Service Coverage Ratio (DSCR) and Days Cash on Hand (DCOH). The below table details the revised ratios at an interest rate assumption of 9.25% for the Series A Bonds and an interest rate assumption of 9.25% for the Series B Bonds, with the applicable comparison to that as originally presented in the feasibility study.

-----DSCR-----			-----DCOH-----			
2005 Senior Bonds Series A & B			Series 2005 Bonds Series A, B & C			
<u>Year</u>	<u>Original Feasibility Study</u>	<u>Utilizing Revised Interest Rates</u>	<u>Original Feasibility Study</u>	<u>Utilizing Revised Interest Rates</u>	<u>Original Feasibility Study</u>	<u>Utilizing Revised Interest Rates</u>
2006	1.47	1.33	1.21	1.11	39.4	30.9
2007	1.55	1.40	1.28	1.17	45.7	35.3
2008	1.63	1.47	1.34	1.23	53.2	39.6
2009	1.68	1.52	1.38	1.27	63.6	45.8
2010	1.73	1.57	1.43	1.31	75.9	53.8

In addition, if real and personal property taxes are required to be paid, the following table illustrates the DSCR on the Series A and B Bonds and DCOH as presented in the original feasibility study compared with utilizing the above noted revised interest rates.

---DSCR-With Property Taxes Paid ---			---DCOH - With Property Taxes Paid---	
2005 Senior Bonds Series A & B				
<u>Year</u>	<u>Original Feasibility Study</u>	<u>Utilizing Revised Interest Rates</u>	<u>Original Feasibility Study</u>	<u>Utilizing Revised Interest Rates</u>
2006	1.31	1.18	31	17
2007	1.39	1.24	33	11
2008	1.46	1.30	36	11
2009	1.51	1.35	40	13
2010	1.56	1.39	46	19

The above ratios are presented for your information only, based on management's representation of revised bond interest rates and the anticipation to cap the Series A interest rate at 9.25% and the Series B Bonds to have an interest rate of 9.25%. Crowe Chizek has no obligation to reissue the complete feasibility study.

*Crowe Chizek and Company LLC*  
Crowe Chizek and Company LLC



## **Feasibility Study of Proposed Acquisition**

### **American Eagle LifeCare Corporation**

American Eagle Home Place, LLC

American Eagle Sanders Glen, LLC

American Eagle Morning Breeze, LLC

October 2005



## **American Eagle LifeCare Corporation**

American Eagle Home Place, LLC

American Eagle Sanders Glen, LLC

American Eagle Morning Breeze, LLC

### **Feasibility Study of Proposed Acquisition**

October 2005

	<u>Page</u>
Report of Independent Accountants . . . . .	1
Forecasted Combined Statements of Operations and Changes in Net Assets . . . . .	2
Forecasted Combined Balance Sheets . . . . .	3
Forecasted Combined Statements of Cash Flows . . . . .	4
Forecasted Debt Service Coverage and Days Cash-on-Hand Ratios . . . . .	5
Summary of Significant Forecast Assumptions and Accounting Policies:	
Description of American Eagle LifeCare Corporation and Combined American Eagle Entities . . . . .	6
Proposed Acquisition . . . . .	7
Forecasted Utilization . . . . .	7
Revenues . . . . .	8
Operating Expenses . . . . .	8
Property, Equipment and Depreciation Expense . . . . .	8
Bond Issuance Costs and Amortization Expense . . . . .	8
Covenant Not To Compete . . . . .	8
Debt Financing and Interest Expense . . . . .	9
Current Assets, Current Liabilities and Changes in Working Capital . . . . .	9
Assets Whose Use is Limited . . . . .	9
Competition . . . . .	12



Board of Directors  
American Eagle LifeCare Corporation  
Nashville, Tennessee

We have examined the accompanying combined forecasted balance sheets, statements of operations, changes in net assets, and cash flows of American Eagle Home Place, LLC, American Eagle Sanders Glen, LLC, and American Eagle Morning Breeze, LLC (collectively referred to as "the Combined American Eagle Entities") as of December 31, 2005 to 2010 and for the period November 1, 2005 through December 31, 2005 and the years ending December 31, 2006 through 2010. American Eagle's management is responsible for the forecast. Our responsibility is to express an opinion on the forecast based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included such procedures as we considered necessary to evaluate both the assumptions used by management and the preparation and presentation of the forecast. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the accompanying forecast is presented in conformity with guidelines for presentation of a forecast by the American Institute of Certified Public Accountants, and the underlying assumptions provide a reasonable basis for management's forecast. However, there will usually be differences between forecasted and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. We have no responsibility to update this report for events and circumstances occurring after the date of this report.

  
Crowe Chizek and Company LLC

South Bend, Indiana  
October 6, 2005

American Eagle LifeCare Corporation

Forecasted Combined Statements of Operations and Changes in Net Assets

for the 2 months ending

	December 31	Year Ending December 31,				
	2005	2006	2007	2008	2009	2010
		(In Thousands of Dollars)				
<b>Revenues</b>						
Private Pay	\$ 650	\$ 4,114	\$ 4,275	\$ 4,442	\$ 4,575	\$ 4,713
Medicaid	72	519	535	551	568	585
Medicare A	177	1,099	1,132	1,166	1,201	1,237
Medicare B	20	122	125	128	132	136
Other Income	19	115	119	122	126	130
<b>Revenues</b>	<b>937</b>	<b>5,969</b>	<b>6,186</b>	<b>6,409</b>	<b>6,602</b>	<b>6,801</b>
<b>Expenses</b>						
Ancillaries	78	485	499	514	530	546
Activities	15	84	87	89	92	95
Supportive Services	16	98	101	104	107	110
Dietary	93	576	593	611	630	648
Skilled Nursing	136	811	836	861	886	913
Residential Nursing	24	175	180	186	191	197
Medical Services	3	21	21	22	23	23
Housekeeping	18	114	117	121	124	128
Laundry	7	38	39	40	42	43
Social Services	6	30	31	32	33	34
Plant & Grounds	96	580	598	616	634	653
Marketing	19	126	130	134	138	142
Working Capital Interest Expense	3	6	0	0	0	0
Fees - Management	34	204	210	216	223	230
General & Administrative	129	842	867	893	920	947
<b>Total expense</b>	<b>678</b>	<b>4,190</b>	<b>4,309</b>	<b>4,439</b>	<b>4,573</b>	<b>4,709</b>
<b>Net income (loss) before other income/(expense)</b>	<b>259</b>	<b>1,779</b>	<b>1,877</b>	<b>1,970</b>	<b>2,029</b>	<b>2,092</b>
<b>Other income/(expense)</b>						
Depreciation Expense	(166)	(1,002)	(1,014)	(1,026)	(1,038)	(997)
Amortization Expense	(6)	(39)	(39)	(39)	(39)	(37)
Interest Expense	(232)	(1,391)	(1,387)	(1,363)	(1,334)	(1,299)
Interest Income	4	31	34	38	42	47
<b>Net other income (expense)</b>	<b>(401)</b>	<b>(2,401)</b>	<b>(2,406)</b>	<b>(2,390)</b>	<b>(2,365)</b>	<b>(2,285)</b>
<b>Change in net assets</b>	<b>(142)</b>	<b>(622)</b>	<b>(529)</b>	<b>(420)</b>	<b>(340)</b>	<b>(194)</b>
Net assets at beginning of year	0	(142)	(764)	(1,293)	(1,713)	(2,053)
<b>Net assets at end of year</b>	<b>\$ (142)</b>	<b>\$ (764)</b>	<b>\$ (1,293)</b>	<b>\$ (1,713)</b>	<b>\$ (2,053)</b>	<b>\$ (2,247)</b>

See assumptions and notes to Combined Financial Statement Forecast

American Eagle LifeCare Corporation

Forecasted Combined Balance Sheets

	December 31, 2005	December 31, 2006 2007 2008 2009 2010				
		(In Thousands of Dollars)				
<b>Assets</b>						
Current assets						
Cash and cash equivalents	\$ 30	\$ 30	\$ 30	\$ 30	\$ 30	\$ 30
Accounts receivable, net of allowance	469	491	508	527	543	559
Assets limited as to use	232	803	1,010	1,072	1,111	1,156
<b>Total current assets</b>	<u>731</u>	<u>1,324</u>	<u>1,548</u>	<u>1,629</u>	<u>1,684</u>	<u>1,745</u>
Property and equipment, at cost						
Land	866	866	866	866	866	866
Buildings	13,512	13,512	13,512	13,512	13,512	13,512
Furniture and fixtures	1,602	1,662	1,722	1,782	1,842	1,902
	<u>15,980</u>	<u>16,040</u>	<u>16,100</u>	<u>16,160</u>	<u>16,220</u>	<u>16,280</u>
Accumulated depreciation	(166)	(1,168)	(2,182)	(3,208)	(4,246)	(5,243)
<b>Total property and equipment, net</b>	<u>15,814</u>	<u>14,872</u>	<u>13,918</u>	<u>12,952</u>	<u>11,974</u>	<u>11,037</u>
Bond issuance costs, net of accumulated amortization	791	764	738	711	685	658
Covenant not to compete, net of accumulated amortization	58	46	34	22	10	0
Assets limited as to use	1,046	1,135	1,270	1,452	1,671	1,931
	<u>1,895</u>	<u>1,945</u>	<u>2,042</u>	<u>2,185</u>	<u>2,366</u>	<u>2,589</u>
<b>Total assets</b>	<u>\$ 18,440</u>	<u>\$ 18,141</u>	<u>\$ 17,508</u>	<u>\$ 16,766</u>	<u>\$ 16,024</u>	<u>\$ 15,371</u>
<b>Liabilities and net assets</b>						
Current liabilities						
Current portion of Series 2005 Senior Bonds	0	0	155	165	175	190
Working capital line of credit	145	-	-	-	-	-
Accounts payable and other accrued expenses	340	344	354	366	377	388
Accrued Interest	232	696	691	678	662	644
<b>Total current liabilities</b>	<u>717</u>	<u>1,040</u>	<u>1,200</u>	<u>1,209</u>	<u>1,214</u>	<u>1,222</u>
Long-term liabilities						
Series 2005 Senior Bonds, less current portion	14,670	14,670	14,615	14,350	14,175	13,985
Series 2005 Subordinate Bonds	3,195	3,195	3,086	2,920	2,688	2,411
<b>Total long-term liabilities</b>	<u>17,865</u>	<u>17,865</u>	<u>17,601</u>	<u>17,270</u>	<u>16,863</u>	<u>16,396</u>
Net assets	(142)	(764)	(1,293)	(1,713)	(2,053)	(2,247)
<b>Total liabilities and net assets</b>	<u>\$ 18,440</u>	<u>\$ 18,141</u>	<u>\$ 17,508</u>	<u>\$ 16,766</u>	<u>\$ 16,024</u>	<u>\$ 15,371</u>

See assumptions and notes to Combined Financial Statement Forecast

American Eagle LifeCare Corporation

Forecasted Combined Statements of Cash Flows

	for the 2 months ending December 31	Year Ending December 31,				
	2005	2006	2007	2008	2009	2010
	(In Thousands of Dollars)					
<b>Cash Flows From Operating Activities:</b>						
Change in net assets	\$ (142)	\$ (622)	\$ (529)	\$ (420)	\$ (340)	\$ (194)
Adjustments to reconcile change in net assets to net cash provided (used in) by operating activities:						
Depreciation and amortization	172	1,041	1,053	1,065	1,077	1,034
(Increase) decrease in:						
Accounts receivable	(469)	(22)	(17)	(19)	(16)	(16)
Assets limited as to use	(1,278)	(659)	(343)	(243)	(258)	(306)
Increase (decrease) in:						
Accounts payable	340	3	10	11	10	12
Accrued interest on Series 2005 Bonds	232	464	(5)	(13)	(16)	(18)
Net cash from operating activities	(1,145)	205	169	381	457	512
<b>Cash Flows From Investing Activities:</b>						
Capital Purchases	(15,980)	(60)	(60)	(60)	(60)	(60)
Routine equipment additions	-	-	-	-	-	-
Net cash from investing activities	(15,980)	(60)	(60)	(60)	(60)	(60)
<b>Cash Flows From Financing Activities:</b>						
Proceeds from Series 2005 Bonds	17,865	-	-	-	-	-
Principal Payments on 2005 Senior Bonds	-	-	-	(155)	(165)	(175)
Principal Payments on 2005 Subordinate Bonds	-	-	(109)	(166)	(232)	(277)
Net activity on line of credit	145	(145)	-	-	-	-
Payment of Bond issue costs and covenant not to compete	(855)	-	-	-	-	-
Net cash from financing activities	17,155	(145)	(109)	(321)	(397)	(452)
<b>Net increase (decrease) in cash</b>	<b>30</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
Cash and cash equivalents at beginning of year	-	30	30	30	30	30
Cash and cash equivalents at end of year	<u>\$ 30</u>	<u>\$ 30</u>	<u>\$ 30</u>	<u>\$ 30</u>	<u>\$ 30</u>	<u>\$ 30</u>
<b>Supplemental disclosures of cash flow information</b>						
Interest paid	\$ -	\$ 927	\$ 1,392	\$ 1,376	\$ 1,350	\$ 1,317

See assumptions and notes to Combined Financial Statement Forecast

American Eagle LifeCare Corporation

FINANCIAL RATIOS

	2005	2006	2007	2008	2009	2010
<b>Forecasted Debt Service Coverage Ratios</b>		(In Thousands of Dollars)				
Change in net assets	\$ (142)	\$ (622)	\$ (529)	\$ (420)	\$ (340)	\$ (194)
Add:						
Items included in operations not requiring expenditures of cash						
Subordinated management fees	10	61	63	65	67	69
Depreciation and amortization	172	1,041	1,053	1,065	1,077	1,034
Interest expense	232	1,391	1,387	1,363	1,334	1,299
Cash Available for Debt Service	\$ 272	\$ 1,871	\$ 1,974	\$ 2,073	\$ 2,138	\$ 2,208
Maximum Debt Service Requirements						
2005 Senior Bonds - Series A and B	\$ 213	\$ 1,275	\$ 1,275	\$ 1,275	\$ 1,275	\$ 1,275
Series 2005 Bonds - Series A, B and C	\$ 258	\$ 1,547	\$ 1,547	\$ 1,547	\$ 1,547	\$ 1,547
Debt Service Coverage Ratio						
2005 Senior Bonds - Series A and B	1.28	1.47	1.55	1.63	1.68	1.73
Series 2005 Bonds - Series A, B and C	1.05	1.21	1.28	1.34	1.38	1.43
<b>Forecasted Days Cash on Hand</b>						
Cash	\$ 30	\$ 30	\$ 30	\$ 30	\$ 30	\$ 30
Operating Reserve Fund (included in Assets limited as to use)	-	72	183	339	528	755
Available Working Capital Line of Credit	355	500	500	500	500	500
Total	\$ 385	\$ 602	\$ 713	\$ 869	\$ 1,058	\$ 1,285
Annual operating expenses, net	\$ 678	\$ 4,190	\$ 4,309	\$ 4,439	\$ 4,573	\$ 4,709
Debt service payments on long-term debt	232	1,391	1,387	1,518	1,499	1,474
Total	\$ 910	\$ 5,581	\$ 5,696	\$ 5,957	\$ 6,072	\$ 6,183
Forecasted Days Cash on Hand	25.4	39.4	45.7	53.2	63.6	75.9

See assumptions and notes to Combined Financial Statement Forecast

## American Eagle LifeCare Corporation

### Summary of Significant Forecast Assumptions and Accounting Policies

#### Basis of Presentation

The financial forecast presents, to the best of management's knowledge and belief, the American Eagle Home Place, LLC, American Eagle Sanders Glen, LLC, and American Eagle Morning Breeze, LLC (collectively referred to as "the Combined American Eagle Entities") expected financial position, results of operations, and cash flows for the forecast periods. Accordingly, the forecast reflects management's judgment as of October 6, 2005, the date of this forecast, of the expected conditions and its expected course of action. The assumptions disclosed herein are those that management believes are significant to the forecast. Even if the assumptions were to be realized, however, there will usually be differences between forecasted and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material.

The financial forecast was prepared in connection with the initial offering of \$12,170,000 Revenue Bonds, Series 2005A (the "Series 2005A Bonds"), \$2,500,000 Taxable Revenue Bonds, Series 2005B (the "Series 2005B Bonds" and together with the Series 2005A Bonds, the "Senior Bonds"), and \$3,195,000 Revenue Bonds, Series 2005C (the "Series 2005C Bonds" or "Subordinate Bonds") and is not intended to be updated.

#### Description of American Eagle LifeCare Corporation and Combined American Eagle Entities

American Eagle LifeCare Corporation is a not-for-profit, Tennessee corporation which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. American Eagle LifeCare Corporation is the parent entity of three newly formed Limited Liability Companies (LLC's). The forecast presents the acquisition of three Indiana facilities as described below by these three newly formed LLC's. The three entities are American Eagle Home Place, LLC, American Eagle Sanders Glen, LLC, and American Eagle Morning Breeze, LLC. The acquisition is recorded under SFAS 141, "*Business Combinations*".

The business and other affairs of the Combined American Eagle Entities are managed under the direction of a Board of Directors (the "Board"). The Combined American Eagle Entities will enter into one or more management services agreements with Medical Rehabilitation Centers, Inc. (the "Manager") to provide administration, marketing, and management of the facilities. The Board, the Manager, and their executive designees are referred to herein collectively as "Management."

The facilities being acquired by the Combined American Eagle Entities are described below:

**The Home Place** - a 60 unit independent living facility located at 6612-6745 Millside Drive, Indianapolis, Indiana. The site contains 10.835 acres along the west side of Mooresville Road. The building improvements consist of eight buildings comprising 62,062 square feet of gross building area which provide 60 retirement apartment units, including a variety of one and two bedroom floor plans. Also included is a community building with a meeting area and a craft room, management office, kitchen and dining room. The net rentable area is 47,424 square feet. The buildings were constructed in 1990 and 1991.

**Sanders Glen** - a 111 unit independent living facility located at 334 South Cherry Street, Westfield, Indiana. The site contains 10.31 acres. The building contains approximately 87,000 square feet of gross building area. Net rentable area is approximately 60,000 square feet and includes a variety of studio, one and two bedroom units. Common areas include two full kitchens, two dining rooms, several lounges, administrative offices, laundry facilities, barber/beauty salon, and several recreational rooms. The building was constructed in two phases, with the first phase in 1990 containing 70 units. The second phase in 1998-1999 contained 41 units.

**Morning Breeze** - a continuing care facility with independent living, assisted living and skilled nursing services, located at 950 N. Lakeview Drive, Greensburg, Indiana. The site contains 5.83 acres. The building consists of a healthcare center building that houses 44 licensed nursing beds (43 beds in use and one room is used for laundry operation), 31 licensed residential beds (assisted living) and five "villa" style buildings that house 18 independent living units. In total, the buildings contain a gross floor area of 54,480 square feet. This includes the healthcare center at 35,040 square feet and the five independent living buildings at a combined area of 19,440 square feet. Additionally, there are attached garages at each independent living unit that have a combined building area of 4,500 square feet. The Morning Breeze healthcare facility contains 29 private rooms for nursing residents, seven semi-private nursing rooms, 27 private residential apartments (which are licensed for 31 residential beds), all of which are studio design, lobby/reception area, beauty/barber shop, activity room, kitchen, dining room and two lounges. Two-bedroom independent living units are available in two different floor plans (standard and deluxe). There are twelve standard size units (989 square feet) and six deluxe size units (1,262 square feet). Each independent living unit has two bathrooms. The buildings were constructed in 1999.



## American Eagle LifeCare Corporation

### Summary of Significant Forecast Assumptions and Accounting Policies

#### Proposed Acquisition

The proposed acquisition contemplates (a) the financing of the acquisition of the Facilities by the Borrowers from the Seller pursuant to the Purchase Agreement; (b) funding the Debt Service Reserve Fund solely for the benefit and security of the Series 2005A Bonds; (c) funding the Capital Additions Fund to provide for certain repairs and equipment replacements at the Facilities; and (d) payment of the expenses incurred in connection with the issuance of the Senior Bonds.

#### Sources and Uses of Funds

A summary of the estimated sources and uses of funds for the acquisition as provided by Management is presented below:

Estimated Sources of Funds:		(in thousands)
Tax-exempt Series A Bonds	\$	12,170
Taxable Series B Bonds		2,500
Tax-exempt, Subordinate Bonds		3,195
		<u>17,865</u>
Estimated Uses of Funds:		
Purchase price of Facilities	\$	15,990
Capital Additions Fund		50
Debt Service Reserve Fund		1,029
Issuance costs		796
	\$	<u>17,865</u>

See assumption regarding Debt Financing and Interest Expense for details of above Series 2005 Bonds.

In order to provide working capital to support the operations of the Combined American Eagle Entities, the Manager will provide a revolving line of credit (the "Line of Credit") in the amount of up to \$500,000.

#### Forecasted Utilization

Forecasted utilization of the Combined American Eagle Entities is based on Management's experience, historical trends and Management's current expectations of the individual facilities. The average daily census, total units/beds available, occupancy percentages and payor mix percentages of each facility for purposes of this forecast are set forth below.

Name of Facility	Location	Daily Census	Units/Beds Available	Occupancy Percentages	Payor Mix Percentages		
					Private	Medicaid	Medicare
The Home Place	Indianapolis, Indiana	57	60	95%	100%	0%	0%
Sanders Glen (1)	Westfield, Indiana	90	111	81%	100%	0%	0%
Morning Breeze (2)	Greensburg, Indiana	82	93	88%	73%	16%	11%

The following represents the most recent Historical Average Daily Census:

	2003	2004	YTD August 31, 2005
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The Home Place	Indianapolis, Indiana	49	53	57
Sanders Glen	Westfield, Indiana	96	93	88
Morning Breeze	Greensburg, Indiana	77	78	76

(1) - Management projects daily census increasing in 2007 and 2008 by 2 units per year, with no further increases projected through 2010.

(2) - Management projects private and Medicaid census to return to historical levels with Medicare census remaining at current trend levels in the year 2006, with no further increases projected through 2010.

The payor mix percentages forecasted represents percentages similar to that of the historical periods.

## **American Eagle LifeCare Corporation**

### **Summary of Significant Forecast Assumptions and Accounting Policies**

#### **Revenues**

The Home Place and Sanders Glen - Revenue for these facilities represents 100% private pay revenue and is forecasted based on assumed facility census at the estimated per diem or monthly rental rates. Private pay rates are based on rates currently in effect and forecasted to increase at a rate of 3% annually for the annual reporting period throughout the forecasted periods.

Morning Breeze - Revenue for this facility is based on the utilization assumptions referenced above and the respective anticipated per diem reimbursement rates for Private, Medicaid and Medicare. Annual rates are anticipated to increase 3%. Ancillary and other revenue are forecasted based on historical levels.

#### **Operating Expenses**

Operating expenses are presented on a functional basis based upon Management's assumptions utilizing historical spending levels and current budgeted amounts. Operating expenses are forecasted to increase at an average annual rate of 3% per year.

Real and personal property taxes have not been forecasted for the Combined American Eagle Entities under Management's assumption that due to the exempt status of American Eagle LifeCare Corporation that after the acquisition, exemption applications will be filed and the exemption from property taxes will be obtained effective as of the date of acquisition.

If real and personal property taxes are required to be paid, the following financial ratios would be forecasted. Debt service coverage ratio on the Series A and B Bonds - 1.05 (2005), 1.31 (2006), 1.39 (2007), 1.46 (2008), 1.51 (2009), and 1.56 (2010). Days cash on hand - 23 (2005), 31 (2006), 33 (2007), 36 (2008), 40 (2009), and 46 (2010).

The Management Fee payable by the Combined American Eagle Entities to the Manager is forecasted as a fixed amount consisting of the Base Management Fee in an amount equal to \$142,800 and the Subordinated Management Fee of \$61,200. The Base Management Fee will be paid as part of monthly operating expenses and the Subordinated Management Fee will be paid monthly to the extent revenues are available after certain required transfers under the Trust Indenture. The Management Fee will be increase annually in accordance with the Consumer Price Index during the term of the Management Agreement.

The Home Office Fee is forecasted to be paid to American Eagle monthly in an amount of \$2,550 per month. The Home Office Fee will be paid as part of monthly operating expenses, and is forecasted as part of general and administrative expenses. The Home Office Fee is forecasted to increase 3% annually.

#### **Property, Equipment and Depreciation Expense**

The Forecasted Balance Sheets reflect the acquisition cost of the Combined American Eagle Entities and are allocated between land, building and equipment based on recent appraisals.

Beginning November 1, 2005 a Replacement Reserve Fund shall be funded monthly from the revenues of the Combined American Eagle Entities, for the funding of future capital expenditures. A Monthly Replacement Reserve Fund Deposit is forecasted to be \$6,667 per month. Specific procedures will be required for approval of the requisition of these funds. For the forecasted period, commencing in 2006, \$60,000 of annual capital expenditures are drawn from this fund.

Estimated provisions for depreciation during the forecast period are computed on the straight-line method using an estimated average 20-year life for building costs, and a 5-year life for furniture, fixtures and equipment.

#### **Bond Issuance Costs and Amortization Expense**

Costs incurred in conjunction with the issuance of the Series 2005 Bonds are assumed to be amortized utilizing the straight-line method over a 30 year period.

#### **Covenant Not To Compete**

A portion of the purchase price of Facilities is allocated to a covenant not to compete in the amount of \$60,000 and is amortized over a five year period, at \$12,000 per year.

## **American Eagle LifeCare Corporation**

### **Summary of Significant Forecast Assumptions and Accounting Policies**

#### **Debt Financing and Interest Expense**

Long-term debt is forecasted to consist of \$17,865,000 of Series 2005 Bonds. The Series 2005 Bonds are assumed to be dated November 1, 2005 and are to consist of the Series 2005A Bonds, the Series 2005B Bonds, and the Series 2005C or Subordinate Bonds.

The Series 2005A Bonds are assumed by Management to consist of fixed rate and term bonds at an assumed average annual interest rate of 7.25%. The Series 2005A Bonds are assumed to be dated November 1, 2005 with maturity on January 1, 2036. Interest is to be paid semi-annually on each January 1 and July 1 beginning July 1, 2006, and principal to be paid annually on each January 1 beginning January 1, 2008.

The Series 2005B Bonds are assumed by Management to consist of fixed rate and term bonds at an assumed average annual interest rate of 9.50%. The Series 2005B Bonds are assumed to be dated November 1, 2005 with maturity on January 1, 2036. Interest is to be paid semi-annually on each January 1 and July 1 beginning July 1, 2006, and principal to be paid annually on each January 1 beginning January 1, 2008.

The Series 2005C Bonds or Subordinate Bonds are assumed by Management to consist of fixed rate bonds at an assumed average annual interest rate of 8.50%. The Series 2005C Bonds are assumed to be dated November 1, 2005 with maturity on January 1, 2026. Interest is to be paid semi-annually based on the available flow of funds with principal to be paid annually, 30 days after receipt of annual financial statements, based on 60% of the annual excess cash flow.

The Line of Credit is forecasted to be obtained from the Manager in the amount of up to \$500,000. The interest rate on the Line of Credit is assumed to be 8%, with interest payable monthly based on the available flow of funds.

#### **Current Assets, Current Liabilities and Changes in Working Capital**

Working capital components have been estimated by Management and are forecasted as follows:

Cash and cash equivalents	Total \$30,000
Accounts receivable	30 days of net resident revenue
Accounts payable and accrued salaries	30 days of operating expenses
Accrued interest	6 months of accrued interest on the Series 2005A and Series 2005B 6 months of accrued interest on the Series 2005C

#### **Assets Whose Use is Limited**

Financing for the acquisition is assumed by Management to be obtained primarily from the issuance of the Series 2005 Bonds. The following section describes those funds that the Trustee will maintain under the terms of the trust indenture.

##### *Project Fund*

At the time of issuance of the Senior Bonds, Senior Bond proceeds in the amount of \$12,795,409 (purchase price less subordinate bonds) will be deposited in the Project Fund to purchase the Facilities from the Seller.

##### *Capital Additions Fund*

At the time of issuance of the Senior Bonds, Senior Bond proceeds in the amount of \$50,000 will be deposited in the Capital Additions Fund to finance the costs of certain repairs and equipment replacements to the Facilities. The forecast includes the use of this fund by December 31, 2005 with the costs of additions added to property and equipment.

##### *Debt Service Reserve Fund*

Upon the delivery of the Senior Bonds, the Trustee will deposit into the Debt Service Reserve Fund an amount equal to the Debt Service Reserve Fund Requirement for the Series 2005A Bonds.

## **American Eagle LifeCare Corporation**

### **Summary of Significant Forecast Assumptions and Accounting Policies**

#### *Revenue Fund*

All revenues and other receipts of the Combined American Eagle Entities will be deposited weekly in the Revenue Fund.

#### *Bond Fund*

The trustee will transfer from the Revenue Fund a monthly amount into the Bond Fund equal to one-sixth of the next semi-annual interest payment due on the Series 2005A and Series 2005B Bonds and an amount equal to one-twelfth of the annual principal payment on the Series 2005A and Series 2005B Bonds. The trustee will also transfer one month of the interest payment to be made on the Series 2005C Bonds, and annually transfer based on the flow of funds the available amount for principal reduction for the Series 2005C Bonds.

#### *Operating Reserve Fund*

The trustee will transfer from the Revenue Fund all remaining funds in accordance with the flow of funds as described below.

#### *Replacement Reserve Fund*

The trustee will transfer from the Revenue Fund a monthly amount beginning November 2005. Monthly payments are required in the amount of \$6,667 commencing November 1, 2005 to fund the Replacement Reserve Fund.

#### *Summary of Monthly Flow of Funds*

The Combined American Eagle Entities will transfer all facility revenues to the trustee on a weekly basis for deposit in the Revenue Fund. The moneys in the Revenue Fund will then be transferred monthly by the trustee in the following manner and order:

1. Transfer monthly the amount required to pay any Rebate Amount to the United States Treasury.
2. Transfer monthly to the individual operating accounts, the estimated amount to be required to pay taxes and insurance, and all cash operating expenses, which include home office fees and base management fees, but exclude subordinated management fees.
3. Transfer monthly to the Interest Account of the Bond Fund one-sixth of the next interest payment due on the Series 2005A and Series 2005B Bonds.
4. Transfer monthly to the Principal Accounts of the Bond Fund one-twelfth of the next principal redemption payment required for the Series 2005A and Series 2005B Bonds.
5. Transfer monthly, to the holder of any Long-Term Indebtedness permitted under the Loan Agreement (other than the Series 2005 Bonds and the Line of Credit), an amount equal to the interest and principal due on such Long-Term Indebtedness.
6. Transfer monthly for the account of the Manager, an amount equal to payment of the Subordinated Management Fee then due and payable.
7. Transfer monthly, to the Debt Service Reserve Fund an amount, if insufficient, to cause the amount therein on deposit to equal the applicable Debt Service Reserve Fund Requirement.
8. Transfer monthly, to the Line of Credit Note holder, an amount equal to the interest and principal due and payable on the Line of Credit Note.
9. Transfer monthly to the Replacement Reserve Fund an amount equal to the Monthly Replacement Reserve Fund Deposit.

## American Eagle LifeCare Corporation

### Summary of Significant Forecast Assumptions and Accounting Policies

10. Transfer monthly to the Subordinate Bonds Interest Account of the Bond Fund, an amount equal to one-sixth of the next interest payment on the Subordinate Bonds.

11. Transfer monthly (i) to the Operating Reserve Fund, an amount equal to 40% of the remainder after paying (1) through (10) above, and (ii) towards principal amortization of the Subordinated Bonds, an amount equal to 60% of the remainder after paying (1) through (10) above; such amount shall be payable to Subordinate bondholders 30 days after receipt of annual financial statements, provided borrower is in compliance with all covenants.

The following table summarizes the ending balances of assets whose use is limited related to the Series 2005 Bonds.

	2005	2006	2007	2008	2009	2010
Current assets:						
Senior bonds (Series A and B) - interest	\$ 187	\$ 560	\$ 560	\$ 554	\$ 548	\$ 541
Subordinated bonds - interest	45	136	131	124	114	102
Senior bonds (Series A and B) - principal	-	-	155	165	175	190
Subordinated bonds - principal	-	107	164	229	274	323
	<u>\$ 232</u>	<u>\$ 803</u>	<u>\$ 1,010</u>	<u>\$ 1,072</u>	<u>\$ 1,111</u>	<u>\$ 1,156</u>
Non-current assets:						
Replacement reserve fund	\$ 13	\$ 34	\$ 58	\$ 84	\$ 114	\$ 147
Debt service reserve fund	1,033	1,029	1,029	1,029	1,029	1,029
Operating reserve fund	-	72	183	339	528	755
	<u>\$ 1,046</u>	<u>\$ 1,135</u>	<u>\$ 1,270</u>	<u>\$ 1,452</u>	<u>\$ 1,671</u>	<u>\$ 1,931</u>

Interest earnings forecasted are estimated to be 2% for all Funds.

## **American Eagle LifeCare Corporation**

### **Summary of Significant Forecast Assumptions and Accounting Policies**

#### **Competition:**

The following have been identified by management as geographic competition for the Facilities:

#### **The Home Place**

Crestwood Village, Indianapolis, IN – 732 independent living units. Built in 1964. Units rent for \$500 to \$800 per month.

Apartments of St. Andrews, Greenwood, IN – 157 independent living units. Built in 1988. Rents range from \$500 to \$700 per month.

Decatur Woods Apartments, Indianapolis, IN – 180 independent living units. Built in phases from 1964 to 1969. Rents range from \$525 to \$580 per month.

Creek Bay at Meridian Woods, Indianapolis, IN – 208 independent living units. Built in phases from 1991 to 1993. Rents range from \$540 to \$720 per month.

Murphy's Landing, Indianapolis, IN – 200 independent living units. Built in 2000. Rents range from \$625 to \$975 per month.

#### **Sanders Glen**

Manor Care @ Summer Trace – Carmel, IN – 161 independent apartment units, 35 assisted living and 100 skilled nursing beds. Built in 1986. Independent units rent from \$1,800 to \$3,100 per month.

Morning Side of College Park, Indianapolis, IN – 128 independent apartment units constructed in 1985. Units rent from \$1,900 to \$3,000 per month.

Clearwater Commons, Indianapolis, IN – 82 assisted living units built in 1998. Units rent from \$1,800 to \$2,700 per month.

Green Tree @ Fort Harrison, Indianapolis, IN – 56 independent living units built in 1999. Units rent from \$1,700 to \$2,700 per month.

Riverbend, Noblesville, IN – 54 independent living units, 75 assisted living units and 22 Alzheimer's units. Built in 2004. Independent units.

#### **Morning Breeze**

Heritage House, Greensburg, IN – 87 beds constructed in 1970. Rates range from \$104 to \$150 per day. Alzheimer's beds at \$135 per day.

Hickory Creek at Greensburg, Greensburg, IN – 40 beds constructed in 1965. Rate charged of \$89 per day.

Odd Fellows Home, Greensburg, IN – 89 beds constructed in 1975. Rates range from \$87 to \$115 per day.

Millers Merry Manor, Rushville, IN – 112 beds constructed in 1975. Rates range from \$127 to \$152 per day. Assisted living - studios \$1,970 per month; 1 bedroom \$2,120 per month.

Flatrock River Lodge, Rushville, IN – 67 beds constructed in 1967. Rates range from \$127 to \$158 per day. Assisted living base rental \$1,684 to \$2,100 per month.

Crownpointe Senior Living, Greensburg, IN – Assisted living units base rental range from \$720 to \$1,268 per month. Villa homes sold on entrance fee basis.

**Note:** No planned competition identified.

## **APPENDIX C**

### **THE FACILITIES**

*The Seller and the Manager have prepared this APPENDIX C.*

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## **THE HOME PLACE**

### ***General***

The Home Place is a 60-unit senior adult independent living facility located at 6612-6745 Millside Drive, Indianapolis, Marion County, Indiana, which will be acquired by American Eagle Home Place, LLC.

### ***Physical Description***

The site of The Home Place contains 10.835 acres. The site is relatively level. To the north and east are single-family homes, the West Newton Friends Church is to the south and an agricultural field borders on the west side of the Facility. The site contains the eight buildings described below, one 12' by 12' metal storage shed, landscaping and maintained lawn areas, asphalt parking and driveways, and concrete sidewalks.

The Home Place is comprised of eight one story buildings comprising 62,062 square feet of gross building area and containing 60 apartment units, in a variety of studio and one and two bedroom floor plans with full kitchens, common areas, storage and mechanical rooms. Some of the units also have attached garages. The net rentable area is 47,424 square feet. The Home Place also includes, as part of one of the buildings, a community building with a meeting area, craft room, management office, kitchen and dining room. Three of the buildings contain a one-car garage. The buildings were constructed in 1990 and 1991.

All eight buildings are constructed as timber frame, slab-on-grade buildings with exteriors of brick and wood sheathing. The roofs of all the buildings are cross-gabled and constructed of chip board sheathing covered by roofing felt and asphalt shingles.

In general, the floors of the interior of the buildings consist of concrete, carpet over concrete and vinyl tile over concrete. Ceiling materials consist of drywall with decorative plaster/paint covering and the wall materials consist of drywall with paint and/ wallpaper coverings.

Each building is conditioned by an electric unit consisting of an AC coil and electric fired heater.

The site has access to municipal water/sewer, electric, telephone, cable television, as well as fire/police protection. A gas line runs along the west side of Mooresville Road but does not traverse the site.

### ***Services.***

The Home Place offers a variety of studio and one and two-bedroom independent living apartments to seniors. The Facility provides no additional services.

### ***Licensure.***

The Home Place is not required to possess a license to operate independent living units in Indiana.

### ***Employees.***

As of September 1, 2005, The Home Place employed two full-time equivalent employees. The employees at The Home Place are not covered by a collective bargaining agreement.

### ***Occupancy History.***

The following table shows selected occupancy history for The Home Place:

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005 (10 mos.)</u>
Average No. of Units Occupied (out of 60)	47.58	49.33	53.0	57
Average Occupancy Percentage	79.3%	82.2%	88.3%	94.7%

## **SANDERS GLEN**

### ***General***

Sanders Glen is a 111-unit rental retirement community located at 334 South Cherry Street, Westfield, Hamilton County, Indiana, which will be acquired by American Eagle Sanders Glen, LLC.

### ***Physical Description***

The site of Sanders Glen contains 10.31 acres. The site slopes from west to east and is surrounded by residential areas to the north, south and west and an undeveloped forested area and storm water retention area to the east. The site contains the main building described below, two storage sheds, landscaping and maintained lawn areas, concrete walkways, and asphalt parking and driveways.

Sanders Glen is comprised of a two story building comprising 87,000 square feet of gross building area containing 111 units. The Facility offers a variety of studio and one and two-bedroom apartments, some with full kitchens and others with Pullman kitchen units. Certain apartments have patios, two bathrooms and other amenities such as oversized units. Common areas include two full kitchens, two dining rooms, common areas, several lounges, administrative offices, laundry facilities, barber/beauty salon and several recreational rooms, and storage and mechanical rooms. The net rentable area is approximately 60,000 square feet. The building was constructed in two phases, with the first phase containing 70 units completed in 1990 and the second phase containing 41 units completed in 1998. Each section contains a hydraulically actuated elevator.

Both sections of the building are of similar construction, timber frame, slab on grade and with a brick façade. The roof structure is predominantly a cross hipped roof with a limited section of composite flat roof over the mechanical room and interconnecting causeway between the original structure and the new structure. The roof is constructed of chip board sheathing, covered by roofing felt and asphalt shingles.

In general, the floors of the interior of the building consist of concrete, carpet over concrete and vinyl or ceramic tile over concrete. Ceiling materials consist of suspended ceiling tiles and drywall with decorative plaster/paint covering and the wall materials consist of drywall with paint and/ wallpaper coverings.

Two 85-gallon, electrical water heaters provide the hot water. The rooms are each equipped with a wall mounted HVAC unit and hallways, common areas and kitchens are served by central HVAC systems located in the mechanical rooms in each section. The building is fully sprinklered.

City services and public utilities servicing the site include the town of Westfield fire, police, sewer and water departments. Natural gas, electricity, and telephone service are provided by the Westfield Gas Company, Cinergy and SBC, respectively

The title insurance policy delivered with respect to Sanders Glen in connection with the issuance of the Senior Bonds contained an exception with respect to an unused 30-foot railroad right-of-way located on the site at its northern edge. Research indicates that some time in the past such right-of-way was conveyed by quitclaim deed by the railroad company to the local municipality and it is unclear whether the municipality or the Sanders Glen Borrower would prevail in an action concerning ownership of such right-of-way. No buildings are located on the right-of-way nor is the right-of-way required for compliance with any local setback requirements nor do the Borrowers deem such right-of-way necessary for the operation of Sanders Glen. The Manager has received indications that the local municipality may use such right of way for a walking path, which the Manager believes would be advantageous to Sanders Glen by increasing its visibility to the public.

### ***Services.***

Sanders Glen offers a variety of studio and one and two-bedroom independent living units to seniors. The Facility also provides dietary, housekeeping, maintenance, laundry, beauty and barber services to its residents. In addition, home health services, provided by an agency not affiliated with Sanders Glen, are available upon request.

***Licensure.***

Sanders Glen is not required to possess a license to operate independent living units in Indiana.

***Employees.***

As of September 1, 2005, Sanders Glen employed 27 full-time equivalent employees. The employees at Sanders Glen are not covered by a collective bargaining agreement.

***Occupancy History.***

The following table shows selected occupancy history for Sanders Glen:

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005 (10 mos.)</u>
Average No. of Units Occupied (out of 111)	95.00	95.75	92.50	86
Average Occupancy Percentage	85.6%	86.3%	83.3%	77.6%

## **MORNING BREEZE RETIREMENT COMMUNITY & HEALTHCARE CENTER**

### ***General***

Morning Breeze Retirement Community & Healthcare Center ("Morning Breeze") is contains 44 licensed comprehensive care nursing beds, 31 licensed residential care beds in 27 units and 18 independent living units, and is located at 950 North Lakeview Drive, Greensburg, Decatur County, Indiana, which will be acquired by American Eagle Morning Breeze, LLC.

### ***Physical Description***

The site of Morning Breeze contains 5.83 acres. The site slopes from south to north, with storm water retention basins located along the northern boundary. Commercial properties are located to the north, east and west and single family residences to the south. The site contains the health care building containing the nursing beds and residential care beds, five "villa" style buildings containing the 18 independent living units, a 20' by 20' maintenance building, a 10' by 15' storage shed, landscaped areas and maintained lawns, asphalt parking and driveways, concrete sidewalks, and two retention areas.

The buildings consist of (1) a single-story healthcare center building that houses the 44 licensed comprehensive care nursing beds (43 beds are currently available for use because one of the rooms licensed for a nursing bed is used for laundry services) and 31 licensed residential care beds (in 27 units), and (2) five "villa" style, single-story buildings that house 18 independent living units. In total, the buildings contain a gross floor area of 54,480 square feet, with the healthcare center containing 35,040 square feet and the five independent living buildings containing a total of 19,440 square feet. Additionally, there are attached garages at each independent living unit that have a combined building area of 4,500 square feet.

The healthcare building contains 29 private rooms and seven semi-private rooms for nursing residents, two nurses stations, 27 private residential care units (all of the studio design) licensed for 31 beds, a lobby/reception area, beauty/barber shop, activity room, a commercial kitchen, dining room and two lounges. The five independent living buildings contain 18 two-bedroom, two-bathroom units in two different floor plans. The buildings were constructed in 1999.

Both the healthcare building and the five independent living buildings are constructed as timber frame, slab-on-grade buildings, with exteriors that are split-face block base (bottom 3 feet) topped with a plaster-stucco system to the eaves. The roof of the healthcare facility is cross-hipped style and the roofs of the independent living buildings are cross-gable style. Both styles are constructed of chip board sheathing, covered by roofing felt and asphalt shingles. The healthcare building is fully sprinklered while the independent living buildings are not sprinklered.

In general, the floors of the interior of the buildings consist of concrete, carpet over concrete and vinyl or ceramic tile over concrete. Ceiling materials consist of drywall with decorative plaster/paint covering and suspended ceiling tiles, and the wall materials consist of drywall with paint and/ wallpaper coverings.

The healthcare building is conditioned by two separate systems. The occupied living spaces are each equipped with a wall mounted HVAC unit, while the hallways, common areas and kitchen are served by central HVAC systems located in the attic space of the building. In the five independent living buildings, each living unit is conditioned by an electric unit consisting of an AC coil and gas fired heater. The healthcare building is continuously monitored by four security cameras and has a nurse call system.

Electrical service is provided by Cinergy. Water and sewer service is provided by the City of Greensburg.

### ***Licensure.***

The 44 comprehensive care nursing beds are licensed by the Indiana State Department of Health and approved by the United States Department of Health and Human Services for participation in the Medicare and

Medicaid programs. The 31 licensed residential care beds are licensed by the Indiana State Department of Health but are not eligible to participate in the Medicare and Medicaid programs. The 18 independent living units are not required to be licensed and are not eligible to participate in the Medicare and Medicaid programs.

During September 2005, a Life Safety Code and Health Code Survey was conducted at Morning Breeze by the Division of Long Term Care of the Indiana State Department of Health (the "Division") to determine if the facility was in compliance with federal participation requirements for nursing homes participating in the Medicare and Medicaid programs. Morning Breeze was notified on September 22, 2005 that the survey found certain deficiencies. Morning Breeze submitted a plan of correction to the Division at the beginning of October 2005 and implemented such plan. On October 31, 2005, a revisit with respect to the Life Safety Code Survey was conducted by the Division and on November 4, 2005 the Division notified Morning Breeze that the deficiencies had been corrected. On November 3, 2005, a revisit with respect to the Health Code Survey was conducted by the Division and on November 10, 2005 Morning Breeze was notified that the facility was determined to be in substantial compliance with the requirements for participation in the Medicare and Medicaid programs.

### ***Employees.***

As of September 1, 2005, Morning Breeze employed 58 full-time equivalent employees. The employees at Morning Breeze are not covered by a collective bargaining agreement.

### ***Historical Utilization and Occupancy.***

The following table shows selected historical utilization statistics for the comprehensive care nursing beds at Morning Breeze for the years ended December 31, 2003 and 2004 and the ten months ended October 31, 2005; utilization statistics are not available prior to 2003 because the Seller only acquired, and the Manager began to manage, Morning Breeze in August 2003. The following statistics are based on 43 available comprehensive care nursing beds because one of the rooms licensed for a nursing bed is used for laundry services.

	<u>2003</u>	<u>2004</u>	<u>2005 (10 mos.)</u>
Comprehensive Care Nursing Care Beds Available	43	43	43
Total Available Patient Days	15,695	15,738	13,072
Occupied Days	13,613	14,276	10,986
Occupancy Percentage	86.7%	90.7%	83.4%
Actual Patient Days (by payor)			
Medicare	2,567	2,889	2,922
Medicaid	5,049	4,305	3,254
Private Pay	5,997	7,082	4,720

The following table shows the occupancy history for the 27 comprehensive care units and the 18 independent living units for the years ended December 31, 2003 and 2004 and the ten months ended October 31, 2005; occupancy statistics are not available prior to 2003 because the Seller only acquired, and the Manager began to manage, Morning Breeze in August 2003.

	<u>2003</u>	<u>2004</u>	<u>2005 (10 mos.)</u>
Average No. of Comp. Care Units Occupied (out of 27)	21.9	23.9	23.0
Average Comp. Care Unit Occupancy Percentage	81.0%	88.7%	85.1%
Average No. of IL Units Occupied (out of 18)	16.4	13.6	15.8
Average IL Unit Occupancy Percentage	90.9%	75.3%	87.7%

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## **APPENDIX D**

### **FINANCIAL INFORMATION FOR THE FACILITIES**

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**Westfield Associates, LLC**  
**Schedule of Division Balance Sheets**  
**October 31, 2005**

	<u>The Home Place</u>	<u>Sanders Glen</u>	<u>Corporate Cost Center</u>	<u>Sub Totals</u>	<u>Morning Breeze</u>	<u>Total Westfield Associates, LLC</u>
<b>ASSETS</b>						
Current assets:						
Cash and cash equivalents	\$1,149	\$1,969	\$1,042,966	\$1,046,084	\$12,746	\$1,058,830
Accounts receivable	2,884	18,970	121,803	143,657	348,498	492,155
Supplies, at cost	-	-	-	-	-	-
Prepaid expenses and other current assets	799	17,411	119,775	137,985	49,289	187,274
Due from (to) Affiliate	257,908	1,126,779	(1,384,687)	-	-	-
Total current assets	<u>262,740</u>	<u>1,165,129</u>	<u>(100,143)</u>	<u>1,327,726</u>	<u>410,533</u>	<u>1,738,259</u>
Property and equipment, at cost:						
Land	119,772	219,905	-	339,677	378,000	717,677
Buildings	1,115,826	3,638,252	-	4,754,078	5,474,739	10,228,817
Furniture and fixtures	113,212	432,413	-	545,625	694,992	1,240,617
Construction work-in progress	-	7,585	-	7,585	-	7,585
	<u>1,348,810</u>	<u>4,298,155</u>	<u>-</u>	<u>5,646,965</u>	<u>6,547,731</u>	<u>12,194,696</u>
Less accumulated depreciation	<u>447,822</u>	<u>1,462,337</u>	<u>-</u>	<u>1,910,159</u>	<u>662,091</u>	<u>2,572,250</u>
Total property and equipment, net	900,988	2,835,818	-	3,736,806	5,885,640	9,622,446
Deferred financing fees, net	-	-	-	-	62,569	62,569
Total assets	<u>\$1,163,728</u>	<u>\$4,000,947</u>	<u>(\$100,143)</u>	<u>\$5,064,532</u>	<u>\$6,358,742</u>	<u>\$11,423,274</u>

**Westfield Associates, LLC**  
**Schedule of Division Balance Sheets**  
**October 31, 2005**

<b>LIABILITIES AND MEMBERS EQUITY (DEFICIT)</b>						
	<b>The Home Place</b>	<b>Sanders Glenn</b>	<b>Corporate Cost Center</b>	<b>Sub Totals</b>	<b>Morning Breeze</b>	<b>Total Westfield Associates, LLC</b>
Current liabilities:						
Accounts payable	\$12,631	\$22,553	\$37,174	\$72,358	\$117,641	\$189,999
Accrued expenses	78,235	94,421	-	172,656	95,842	268,498
Accrued interest	(762)	(3,059)	-	(3,821)	8,240	4,419
Security deposits	19,254	84,313	-	103,567	26,190	129,757
Current portion of long-term debt	955,845	3,836,933	-	4,792,778	293,078	5,085,856
Total current liabilities	1,065,203	4,035,161	37,174	5,137,538	540,991	5,678,529
Interest rate swap liability	-	-	-	-	-	-
Long-term debt, excluding current portion	-	-	-	-	5,853,088	5,853,088
Total liabilities	1,065,203	4,035,161	37,174	5,137,538	6,394,079	11,531,617
Members' equity (deficit):						
Members' equity (deficit)	98,525	(34,214)	(137,317)	(73,006)	(35,337)	(108,343)
Accumulated other comprehensive loss	-	-	-	-	-	0
Total member's equity (deficit)	98,525	(34,214)	(137,317)	(73,006)	(35,337)	(108,343)
Total liabilities and members' equity (deficit)	\$1,163,728	\$4,000,947	(\$100,143)	\$5,064,532	\$6,358,742	\$11,423,274

**Westfield Associates, LLC**  
**Schedule of Division Statements of Income and Comprehensive Income**  
**for the ten month period ended October 31, 2005**

	<u>The Home Place</u>	<u>Sanders Glen</u>	<u>Corporate Cost Center</u>	<u>Sub Totals</u>	<u>Morning Breeze</u>	<u>Total Westfield Associates, LLC</u>
Operating revenues	\$423,746	\$1,280,537	-	\$1,704,283	\$3,169,284	\$4,873,567
Interest income	-	-	\$30,053	30,053	-	30,053
Total revenues	423,746	1,280,537	30,053	1,734,336	3,169,284	4,903,620
Operating expenses	233,294	949,828	27,584	1,210,706	2,670,012	3,880,718
Interest expense	50,318	201,544	-	251,862	292,817	544,679
Depreciation and amortization	41,609	163,379	768	205,756	266,543	472,299
Total expenses	325,221	1,314,751	28,352	1,668,324	3,229,372	4,897,696
Net income (loss)	98,525	(34,214)	1,701	66,012	(60,088)	5,924
Other comprehensive income:						
Gain on derivative instruments	-	-	60,592	60,592	-	60,592
Comprehensive income (loss)	<u>\$98,525</u>	<u>(\$34,214)</u>	<u>\$62,293</u>	<u>\$126,604</u>	<u>(\$60,088)</u>	<u>\$66,516</u>

**Westfield Associates, LLC**  
**Balance Sheets**  
**December 31, 2004 and 2003**

	ASSETS	2004	2003
<b>Current assets</b>			
Cash and cash equivalents		\$ 1,140,525	\$ 1,009,912
Accounts receivable		428,822	214,134
Supplies, at cost		3,973	3,973
Prepaid expenses and other current assets		107,419	104,564
Total current assets		<u>1,680,739</u>	<u>1,332,583</u>
<b>Property and equipment, at cost</b>			
Land		703,242	701,348
Buildings		10,201,721	10,164,707
Furniture and fixtures		1,140,434	1,118,465
Construction work-in-progress		7,585	7,585
		<u>12,052,982</u>	<u>11,992,105</u>
Less accumulated depreciation		<u>2,118,899</u>	<u>1,587,951</u>
Total property and equipment, net		<u>9,934,083</u>	<u>10,404,154</u>
Deferred financing fees, net		<u>81,516</u>	<u>106,401</u>
Total assets		<u>\$ 11,696,338</u>	<u>\$ 11,843,138</u>
<b>LIABILITIES AND MEMBERS' EQUITY (DEFICIT)</b>			
<b>Current liabilities</b>			
Accounts payable		\$ 44,586	\$ 94,691
Accrued expenses		354,801	281,404
Accrued interest		31,180	46,267
Security deposits		128,260	126,573
Current portion of long-term debt		<u>5,097,568</u>	<u>336,381</u>
Total current liabilities		5,656,395	885,316
Interest rate swap liability		60,592	304,309
Long-term debt, excluding current portion		<u>5,997,211</u>	<u>11,068,024</u>
Total liabilities		<u>11,714,198</u>	<u>12,257,649</u>
Members' equity (deficit)			
Members' equity (deficit)		42,732	(110,202)
Accumulated other comprehensive loss		<u>(60,592)</u>	<u>(304,309)</u>
Total members' equity (deficit)		<u>(17,860)</u>	<u>(414,511)</u>
Total liabilities and members' equity (deficit)		<u>\$ 11,696,338</u>	<u>\$ 11,843,138</u>

**Westfield Associates, LLC**  
**Statements of Income and Comprehensive Income**  
**for the years ended December 31, 2004 and 2003**

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	<u>2004</u>	<u>2003</u>
Operating revenues	\$ 5,540,119	\$ 3,334,998
Interest income	20,450	9,820
Total revenues	5,560,569	3,344,818
Operating expenses	4,089,499	2,439,087
Interest expense	662,303	507,160
Depreciation and amortization	555,833	392,717
Total expenses	5,307,635	3,338,964
Net income	252,934	5,854
Other comprehensive income:		
Gain on derivative instruments	243,717	177,557
Comprehensive income	<u>\$ 496,651</u>	<u>\$ 183,411</u>

**Westfield Associates, LLC**  
**Statements of Members' Equity (Deficit)**  
**for the years ended December 31, 2004 and 2003**

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	<u>Members'</u> <u>Equity (Deficit)</u>	<u>Accumulated</u> <u>Other</u> <u>Comprehensive</u> <u>Loss</u>	<u>Total Members'</u> <u>Equity (Deficit)</u>
Balance, December 31, 2002	\$ (46,056)	\$ (481,866)	\$ (527,922)
Net income	5,854		5,854
Net unrealized gain on derivative instruments		177,557	177,557
Capital withdrawals by members	<u>(70,000)</u>	<u></u>	<u>(70,000)</u>
Balance, December 31, 2003	(110,202)	(304,309)	(414,511)
Net income	252,934		252,934
Net unrealized gain on derivative instruments		243,717	243,717
Capital withdrawals by members	<u>(100,000)</u>	<u></u>	<u>(100,000)</u>
Balance, December 31, 2004	<u>\$ 42,732</u>	<u>\$ (60,592)</u>	<u>\$ (17,860)</u>

**Westfield Associates, LLC**  
**Statements of Cash Flows**  
**for the years ended December 31, 2004 and 2003**

	<u>2004</u>	<u>2003</u>
<b>Cash flows from operating activities</b>		
Net income	\$ 252,934	\$ 5,854
Adjustments to reconcile net income to net cash provided by operating activities		
Depreciation and amortization	555,833	392,717
Change in operating assets and liabilities:		
Accounts receivable	(214,688)	(202,192)
Supplies	-	281
Prepaid expenses and other current assets	(2,855)	(78,122)
Accounts payable	(50,105)	47,352
Accrued expenses	73,397	115,998
Accrued interest	(15,087)	21,558
Security deposits	1,687	32,588
Net cash provided by operating activities	<u>601,116</u>	<u>336,034</u>
<b>Cash flows from investing activities</b>		
Acquisition of Morning Breeze Retirement Community assets	-	(6,480,000)
Additions to property and equipment	<u>(60,877)</u>	<u>(55,949)</u>
Net cash used in investing activities	<u>(60,877)</u>	<u>(6,535,949)</u>
<b>Cash flows from financing activities</b>		
Financing costs	-	(111,653)
Proceeds from new borrowings	84,699	6,553,366
Payments on long-term debt	(394,325)	(177,345)
Capital withdrawals by members	<u>(100,000)</u>	<u>(70,000)</u>
Net cash (used in) provided by financing activities	<u>(409,626)</u>	<u>6,194,368</u>
Net increase (decrease) in cash and cash equivalents	130,613	(5,547)
Cash and cash equivalents at beginning of period	<u>1,009,912</u>	<u>1,015,459</u>
Cash and cash equivalents at end of period	<u>\$ 1,140,525</u>	<u>\$ 1,009,912</u>
<b>Supplemental disclosures of cash flow information</b>		
Interest paid	<u>\$ 675,904</u>	<u>\$ 485,602</u>

**Westfield Associates, LLC**  
**Notes to Financial Statements**  
**December 31, 2004 and 2003**

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**1. Description of the Company**

Westfield Associates, LLC (the Company) owns and operates two apartment complexes for the elderly: The Home Place and Sanders Glen, both in the greater Indianapolis, Indiana area. The Home Place and Sanders Glen contain 60 and 111 independent living units, respectively. In August 2003, the Company purchased assets of a continuing care retirement community, Morning Breeze Retirement Community (Morning Breeze), in Greensburg, Indiana. Morning Breeze contains 18 villa homes, 26 assisted living apartments and a 43 bed healthcare center.

**2. Summary of Significant Accounting Policies**

**Basis of Accounting**

The accompanying financial statements of the Company have been prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America.

**Cash and Cash Equivalents**

For purposes of reporting cash flows, the Company has defined cash and cash equivalents as cash and demand balances due from banks and interest bearing deposits with other financial institutions.

**Property and Equipment**

Property and equipment are stated at cost less accumulated depreciation. Depreciation is computed by the straight-line method over the estimated lives of the respective assets. Interest cost incurred on borrowed funds during the period of construction of capital assets is capitalized as a component of the cost of acquiring those assets.

**Deferred Financing Fees**

Costs incurred for financing have been capitalized and are being amortized over the term of the debt using a method that approximates the level yield method.

**Income Taxes**

The Company was formed as a Limited Liability Company; therefore, the Company pays no income taxes as the members report as taxable income or loss their respective share of the Company's income or loss.



**Westfield Associates, LLC**  
**Notes to Financial Statements**  
**December 31, 2004 and 2003**

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**Management Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates used in the preparation of the financial statements.

**Interest Rate Swap Contract**

The Company utilizes interest rate swap contracts to reduce its exposure to adverse fluctuations in interest rates on its long-term debt. Such swaps are accounted for as cash flow hedge transactions, with related gains and losses recorded in other comprehensive income as incurred.

**Westfield Associates, LLC**  
**Notes to Financial Statements**  
**December 31, 2004 and 2003**

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**3. Long-term Debt**

	<u>2004</u>	<u>2003</u>
Mortgage note payable, at a one-month LIBOR rate (2.36% and 1.17% at December 31, 2004 and 2003, respectively) plus 1.85% payable in monthly principal installments of \$4,105 plus interest to April 2005 at which time the remaining balance is due (collateralized by mortgages, security interests in the furniture, fixtures, and equipment, and assignment of rents on two retirement apartment complexes and guaranteed by the members' shareholders).	\$ 2,594,311	\$ 2,643,570
Construction note payable, at a one-month LIBOR rate (2.36% and 1.17% at December 31, 2004 and 2003, respectively) plus 1.85%; payable in monthly principal installments of \$2,617 plus interest to April 2005 at which time the remaining balance is due (collateralized by mortgages, security interests in the furniture, fixtures, and equipment, and assignment of rents on two retirement apartment complexes and guaranteed by the members' shareholders).	2,272,746	2,304,150
Mortgage note payable, at Lender's "Index Rate" (5.25% and 4% at December 31, 2004 and 2003, respectively) less 0.5%, payable in monthly installments of principal and interest sufficient to fully amortize unpaid principal over the term of the note plus 15 years. Monthly principal and interest payment was \$40,089 at December 31, 2004. Maturity date is August 1, 2008 (collateralized by mortgage, security interest in business assets of continuing care retirement community, pledge of \$650,000 certificate of deposit, assignment of leases and rents and guaranteed by the members' shareholders).	5,898,728	6,128,775
Promissory note, with interest fixed at 7%, payable in 39 quarterly installments of \$7,018 each and a final installment of \$207,340 due on August 1, 2013 (collateralized by a second mortgage and security interest in business assets of continuing care retirement community).	291,000	298,262
Insurance premium financing agreement (with interest fixed at 6% and 5.85% at December 31, 2004 and 2003, respectively) payable in nine monthly installments of \$9,648. Final payment due May 1, 2005.	37,994	29,648
Total long-term debt	11,094,779	11,404,405
Current portion of long-term debt	5,097,568	336,381
	<u>\$ 5,997,211</u>	<u>\$ 11,068,024</u>

**Westfield Associates, LLC**  
**Notes to Financial Statements**  
**December 31, 2004 and 2003**

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The scheduled maturities of long-term debt as of December 31, 2004 are as follows:

2005	\$ 5,097,568
2006	218,855
2007	229,824
2008	5,292,224
2009	10,295
Thereafter	246,013
	<u>\$ 11,094,779</u>

**4. Interest Rate Swap Contracts**

Statement of Financial Accounting Standards (SFAS) No. 133, "*Accounting for Derivative Instruments and Hedging Activities*" including SFAS No. 138, "*Accounting for Certain Derivative Instruments and Certain Hedging Activities - an amendment of FASB Statement No. 133*" establishes accounting and reporting standards requiring that every derivative financial instrument be recorded on the balance sheet at its fair value. SFAS No. 133 and 138 require all changes in the derivative's fair value be recognized currently in earnings unless specific hedge accounting criteria are met. Special accounting for qualifying hedges allows a derivative's gains and losses to offset related results on the hedged item in other comprehensive income, and requires that the Company must formally document, designate, and assess the effectiveness of transactions that receive cash flow hedge accounting. SFAS No. 133 could increase the volatility in earnings and other comprehensive income.

The Company has entered into interest rate swap contracts to reduce its exposure to market risks from changes in interest rates. In accordance with the contracts, the Company will pay interest at fixed rates of 7.99% and 8.10% for the mortgage note payable and the construction note payable, respectively, and will receive interest at a variable rate equal to the rate on the debt hedged. The swap contracts for the mortgage note payable and the construction note payable have notional principal amounts equal to the amounts on the corresponding debt instrument. The interest rate swap contracts mature in April 2005, which is when the related debt matures.

**Westfield Associates, LLC**  
**Notes to Financial Statements**  
**December 31, 2004 and 2003**

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The Company has designated its interest rate swap contracts as cash flow hedges of anticipated interest payments under its variable rate mortgage note payable and construction note payable. The fair value of the interest rate swaps at December 31, 2004 and 2003 are (\$60,592) and (\$304,309), respectively. The Company recorded a gain of \$243,717 and \$177,557 as other comprehensive income for the years ended December 31, 2004 and 2003, respectively. The Company is exposed to credit loss in the event of non-performance by the counter parties to the interest rate swap agreements. The Company does not anticipate nonperformance by the counter parties. Assuming an increase in the fair value of the interest rate contracts an amount may be reclassified from other comprehensive income to earnings in the next twelve months.

**5. Concentration of Credit Risk**

Substantially all the Company's cash is on deposit with one major bank. Deposits in excess of \$100,000 are not insured by the Federal Deposit Insurance Corporation.

**6. Pension Plan**

The Company has a retirement savings program, commonly referred to as SIMPLE. This program is available to all employees who have received at least \$5,000 in compensation in the prior and current calendar year. This plan provides for a Company match of an employee's contribution dollar for dollar, up to 3% of their compensation. The Company contributed \$1,804 and \$4,880 to the plan in 2004 and 2003, respectively.

**Westfield Associates, LLC**  
**Notes to Financial Statements**  
**December 31, 2004 and 2003**

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**7. Fair Value of Financial Instruments**

The following table reflects a comparison of the carrying amounts and fair values of financial instruments of the Company:

	2004		2003	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
Cash and cash equivalents	\$ 1,140,525	\$ 1,140,525	\$ 1,009,912	\$ 1,009,912
Long-term debt	11,094,779	11,094,779	11,404,405	11,404,405
Interest rate swap	(60,592)	(60,592)	(304,309)	(304,309)

The carrying amount of cash and cash equivalents approximate their fair value principally due to the short-term nature of these instruments. The fair value of the Company's long-term debt approximates the carrying amounts by virtue of the variable rate interest arrangements associated with the majority of the debt. The fair value of the interest rate swap agreements generally reflect the estimated amounts the Company would (pay) or receive to terminate the agreements at December 31, 2004 and 2003, respectively.

**Westfield Associates, LLC**  
**Schedule of Division Balance Sheets**  
**December 31, 2004**

	The Home Place	Sanders Glenn	Corporate Cost Center	Sub Totals	Morning Breeze	Total Westfield Associates, LLC
<b>ASSETS</b>						
Current assets:						
Cash and cash equivalents	\$10,076	\$9,988	\$1,083,223	\$1,103,287	\$37,238	\$1,140,525
Accounts receivable	632	5,508	9,409	15,549	413,273	428,822
Supplies, at cost	-	3,973	-	3,973	-	3,973
Prepaid expenses and other current assets	2,779	15,786	3,497	22,062	85,357	107,419
Note Receivable/Payable Affiliate	-	-	256,808	256,808	(256,808)	-
Due from (to) Affiliate	191,994	1,270,132	(1,462,126)	-	-	-
Total current assets	205,481	1,305,387	(109,189)	1,401,679	279,060	1,680,739
Property and equipment, at cost:						
Land	119,772	205,470	-	325,242	378,000	703,242
Buildings	1,098,431	3,628,551	-	4,726,982	5,474,739	10,201,721
Furniture, fixtures and equipment	98,799	383,906	-	482,705	657,729	1,140,434
Construction work-in progress	-	7,585	-	7,585	-	7,585
	1,317,002	4,225,512	-	5,542,514	6,510,468	12,052,982
Less accumulated depreciation	406,213	1,298,959	-	1,705,172	413,727	2,118,899
Total property and equipment, net	910,789	2,926,553	-	3,837,342	6,096,741	9,934,083
Deferred financing fees, net	-	-	768	768	80,748	81,516
Total assets	\$1,116,270	\$4,231,940	(\$108,421)	\$5,239,789	\$6,456,549	\$11,696,338

**Westfield Associates, LLC**  
**Schedule of Division Balance Sheets**  
**December 31, 2004**

**LIABILITIES AND MEMBERS EQUITY (DEFICIT)**

	The Home Place	Sanders Glenn	Corporate Cost Center	Sub Totals	Morning Breeze	Total Westfield Associates, LLC
Current liabilities:						
Accounts payable	\$8,344	\$4,920	\$4,265	\$17,529	\$27,057	\$44,586
Accrued expenses	75,869	129,580	-	205,449	149,352	354,801
Accrued interest	4,750	19,168	-	23,918	7,262	31,180
Security deposits	23,592	84,263	-	107,855	20,405	128,260
Current portion of long-term debt	972,776	3,894,281	-	4,867,057	230,511	5,097,568
Total current liabilities	1,085,331	4,132,212	4,265	5,221,808	434,587	5,656,395
Interest rate swap liability	-	-	60,592	60,592	-	60,592
Long-term debt, excluding current portion	-	-	-	0	5,997,211	5,997,211
Total liabilities	1,085,331	4,132,212	64,857	5,282,400	6,431,798	11,714,198
Members' equity (deficit):						
Members' equity (deficit)	30,939	99,728	(112,686)	17,981	24,751	42,732
Accumulated other comprehensive loss	-	-	(60,592)	(60,592)	-	(60,592)
Total member's equity (deficit)	30,939	99,728	(173,278)	(42,611)	24,751	(17,860)
Total liabilities and members' equity (deficit)	\$1,116,270	\$4,231,940	(\$108,421)	\$5,239,789	\$6,456,549	\$11,696,338

**Westfield Associates, LLC**  
**Schedule of Division Statements of Income and Comprehensive Income**  
**for the year ended December 31, 2004**

	The Home Place	Sanders Glean	Corporate Cost Center	Sub Totals	Morning Breeze	Total Westfield Associates, LLC
Operating revenues	\$472,560	\$1,615,109	-	\$2,087,669	\$3,452,450	\$5,540,119
Interest income	-	-	\$20,450	20,450	-	20,450
Total revenues	472,560	1,615,109	20,450	2,108,119	3,452,450	5,560,569
Operating expenses	314,990	1,001,802	9,444	1,326,236	2,763,263	4,089,499
Interest expense	79,891	321,831	-	401,722	260,581	662,303
Depreciation and amortization	46,740	191,748	3,070	241,558	314,275	555,833
Total expenses	441,621	1,515,381	12,514	1,969,516	3,338,119	5,307,635
Net income	30,939	99,728	7,936	138,603	114,331	252,934
Other comprehensive income:						
Gain on derivative instruments	-	-	243,717	243,717	-	243,717
Comprehensive income	\$30,939	\$99,728	\$251,653	\$382,320	\$114,331	\$496,651



**Westfield Associates, LLC**  
**Schedule of Division Statements of Cash Flows**  
**for the year ended December 31, 2004**

	The Home Place	Sanders Glenn	Corporate Cost Center	Sub Totals	Morning Breeze	Total Westfield Associates, LLC
Cash flows from operating activities:						
Net income (loss)	\$30,939	\$99,728	\$7,936	\$138,603	\$114,331	\$252,934
Adjustments to reconcile net income (loss) to net cash (used in) provided by operating activities:						
Depreciation and amortization	46,740	191,748	3,070	241,558	314,275	555,833
Change in operating assets and liabilities:						
Accounts receivable	1,353	12,913	(9,409)	4,857	(219,545)	(214,688)
Supplies	-	-	-	-	-	-
Prepaid expenses and other current assets	3,475	(642)	2,288	5,121	(7,976)	(2,855)
Accounts payable	1,167	(6,684)	(22,492)	(28,009)	(22,096)	(50,105)
Accrued expenses	12,352	14,702	(7,475)	19,559	53,838	73,397
Accrued interest	(90)	(305)	-	(395)	(14,692)	(15,087)
Security deposits	(1,828)	9,303	-	7,475	(5,788)	1,687
Net cash provided by (used in) operations	94,088	320,763	(26,082)	388,769	212,347	601,116
Cash flows used in investing activities:						
Acquisition of Morning Breeze assets	-	-	-	-	-	-
Additions to property and equipment	(11,119)	(36,334)	-	(47,453)	(13,424)	(60,877)
Net cash (used in) provided by investing activities	(11,119)	(36,334)	-	(47,453)	(13,424)	(60,877)
Cash flows from financing activities:						
Advance (to) from other divisions	(60,483)	(217,297)	240,001	(37,779)	37,779	-
Financing costs	-	-	-	-	-	-
Proceeds from new borrowings	-	-	-	-	84,699	84,699
Payments on long-term debt	(18,471)	(62,192)	-	(80,663)	(313,662)	(394,325)
Capital withdrawals by members	-	-	(100,000)	(100,000)	-	(100,000)
Net cash (used in) provided by financing activities	(78,954)	(279,489)	140,001	(218,442)	(191,184)	(409,626)
Net (decrease) increase in cash and cash equivalents	4,015	4,940	113,919	122,874	7,739	130,613
Cash and cash equivalents at beginning of year	6,061	5,048	969,304	980,413	29,499	1,009,912
Cash and cash equivalents at end of year	\$10,076	\$9,988	\$1,083,223	\$1,103,287	\$37,238	\$1,140,525
Supplemental disclosures of cash flow information:						
Cash paid for interest	\$79,973	\$320,954	\$0	\$400,927	\$274,977	\$675,904

**Westfield Associates, LLC****Balance Sheets***December 31, 2003 and 2002*

	ASSETS	2003	2002
Current assets:			
Cash and cash equivalents		\$ 1,009,912	\$ 1,015,459
Accounts receivable		214,134	11,942
Supplies, at cost		3,973	4,254
Prepaid expenses and other current assets		104,564	26,442
Total current assets		<u>1,332,583</u>	<u>1,058,097</u>
Property and equipment, at cost:			
Land		701,348	312,350
Buildings		10,164,707	4,680,730
Furniture and fixtures		1,118,465	455,491
Construction work-in-progress		7,585	7,585
		<u>11,992,105</u>	<u>5,456,156</u>
Less accumulated depreciation		<u>1,587,951</u>	<u>1,207,394</u>
Total property and equipment, net		<u>10,404,154</u>	<u>4,248,762</u>
Deferred financing fees, net		<u>106,401</u>	<u>6,908</u>
Total assets		<u>\$ 11,843,138</u>	<u>\$ 5,313,767</u>
<b>LIABILITIES AND MEMBERS' DEFICIT</b>			
Current liabilities:			
Accounts payable		\$ 94,691	\$ 47,339
Accrued expenses		281,404	165,406
Accrued interest		46,267	24,709
Security deposits		126,573	93,985
Current portion of long-term debt		<u>336,381</u>	<u>80,664</u>
Total current liabilities		<u>885,316</u>	<u>412,103</u>
Interest rate swap liability		304,309	481,866
Long-term debt, excluding current portion		<u>11,068,024</u>	<u>4,947,720</u>
Total liabilities		<u>12,257,649</u>	<u>5,841,689</u>
Members' deficit			
Members' deficit		(110,202)	(46,056)
Accumulated other comprehensive loss		<u>(304,309)</u>	<u>(481,866)</u>
Total members' deficit		<u>(414,511)</u>	<u>(527,922)</u>
Total liabilities and members' deficit		<u>\$ 11,843,138</u>	<u>\$ 5,313,767</u>

**Westfield Associates, LLC**  
**Statements of Income and Comprehensive Income**  
*for the years ended December 31, 2003 and 2002*

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	<b>2003</b>	<b>2002</b>
Operating revenues	\$ 3,334,998	\$ 2,024,961
Interest income	9,820	7,230
Total revenues	3,344,818	2,032,191
Operating expenses	2,439,087	1,207,773
Interest expense	507,160	413,512
Depreciation and amortization	392,717	259,350
Total expenses	3,338,964	1,880,635
Net income	5,854	151,556
Other comprehensive income (loss):		
Gain (loss) on derivative instruments	177,557	(191,684)
Comprehensive income (loss)	\$ 183,411	\$ (40,128)

**Westfield Associates, LLC**  
**Statements of Members' Equity (Deficit)**  
*for the years ended December 31, 2003 and 2002*

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	<b>Members'</b>	<b>Accumulated Other Comprehensive</b>	<b>Total Members'</b>
	<b>Equity (Deficit)</b>	<b>Loss</b>	<b>Equity (Deficit)</b>
Balance, December 31, 2001	\$ (47,612)	\$ (290,182)	\$ (337,794)
Net income	151,556		151,556
Net unrealized loss on derivative instruments		(191,684)	(191,684)
Capital withdrawals by members	<u>(150,000)</u>	<u></u>	<u>(150,000)</u>
Balance, December 31, 2002	(46,056)	(481,866)	(527,922)
Net income	5,854		5,854
Net unrealized gain on derivative instruments		177,557	177,557
Capital withdrawals by members	<u>(70,000)</u>	<u></u>	<u>(70,000)</u>
Balance, December 31, 2003	<u>\$ (110,202)</u>	<u>\$ (304,309)</u>	<u>\$ (414,511)</u>

**Westfield Associates, LLC**  
**Statements of Cash Flows**

*for the years ended December 31, 2003 and 2002*

	<u>2003</u>	<u>2002</u>
Cash flows from operating activities:		
Net income	\$ 5,854	\$ 151,556
Adjustments to reconcile net income to net cash provided by operating activities		
Depreciation and amortization	392,717	259,350
Change in operating assets and liabilities:		
Accounts receivable	(202,192)	(6,658)
Supplies	281	1,624
Prepaid expenses and other current assets	(78,122)	(5,496)
Accounts payable	47,352	16,826
Accrued expenses	115,998	3,230
Accrued interest	21,558	(396)
Security deposits	32,588	(3,375)
Net cash provided by operating activities	<u>336,034</u>	<u>416,661</u>
Cash flows from investing activities		
Acquisition of Morning Breeze Retirement Community assets	(6,480,000)	-
Additions to property and equipment	<u>(55,949)</u>	<u>(23,431)</u>
Net cash used in investing activities	<u>(6,535,949)</u>	<u>(23,431)</u>
Cash flows from financing activities:		
Financing costs	(111,653)	-
Proceeds from new borrowings	6,553,366	-
Payments on long-term debt	(177,345)	(80,664)
Capital withdrawals by members	<u>(70,000)</u>	<u>(150,000)</u>
Net cash provided by (used in) financing activities	<u>6,194,368</u>	<u>(230,664)</u>
Net (decrease) increase in cash and cash equivalents	(5,547)	162,566
Cash and cash equivalents at beginning of period	<u>1,015,459</u>	<u>852,893</u>
Cash and cash equivalents at end of period	<u>\$ 1,009,912</u>	<u>\$ 1,015,459</u>
Supplemental disclosures of cash flow information:		
Interest paid	<u>\$ 485,602</u>	<u>\$ 413,908</u>

**Westfield Associates, LLC**  
**Notes to Financial Statements**

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**1. Description of the Company:**

Westfield Associates, LLC (the Company) owns and operates two apartment complexes for the elderly: The Home Place and Sanders Glen, both in the greater Indianapolis, Indiana area. The Home Place and Sanders Glen contain 60 and 111 independent living units, respectively. In August 2003, the Company purchased assets of a continuing care retirement community, Morning Breeze Retirement Community (Morning Breeze), in Greensburg, Indiana. Morning Breeze contains 18 villa homes, 26 assisted living apartments and a 43 bed healthcare center.

**2. Summary of Significant Accounting Policies:**

**Basis of Accounting:** The accompanying financial statements of the Company have been prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America.

**Cash and Cash Equivalents:** For purposes of reporting cash flows, the Company has defined cash and cash equivalents as cash and demand balances due from banks and interest bearing deposits with other financial institutions.

**Property and Equipment:** Property and equipment are stated at cost less accumulated depreciation. Depreciation is computed by the straight-line method over the estimated lives of the respective assets. Interest cost incurred on borrowed funds during the period of construction of capital assets is capitalized as a component of the cost of acquiring those assets.

**Deferred Financing Fees:** Costs incurred for financing have been capitalized and are being amortized over the term of the debt using a method that approximates the level yield method.

**Income Taxes:** The Company was formed as a Limited Liability Company; therefore, the Company pays no income taxes as the members report as taxable income or loss their respective share of the Company's income or loss.

**Management Estimates:** The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates used in the preparation of the financial statements.

**Interest Rate Swap Contract:** The Company utilizes interest rate swap contracts to reduce its exposure to adverse fluctuations in interest rates on its long-term debt. Such swaps are accounted for as cash flow hedge transactions, with related gains and losses recorded in other comprehensive income as incurred.

**Westfield Associates, LLC**  
**Notes to Financial Statements, Continued**

**3. Long-term Debt:**

	<u>2003</u>	<u>2002</u>
Mortgage note payable, at a one-month LIBOR rate (1.17% and 1.43% at December 31, 2003 and 2002, respectively) plus 1.85% payable in monthly principal installments of \$4,105 plus interest to April 2005 at which time the remaining balance is due (collateralized by mortgages, security interests in the furniture, fixtures, and equipment, and assignment of rents on two retirement apartment complexes and guaranteed by the members' shareholders).	\$ 2,643,570	\$ 2,692,830
Construction note payable, at a one-month LIBOR rate (1.17% and 1.43% at December 31, 2003 and 2002, respectively) plus 1.85%; payable in monthly principal installments of \$2,617 plus interest to April 2005 at which time the remaining balance is due (collateralized by mortgages, security interests in the furniture, fixtures, and equipment, and assignment of rents on two retirement apartment complexes and guaranteed by the members' shareholders).	2,304,150	2,335,554
Mortgage note payable, at Lender's "Index Rate" (4% at December 31, 2003) less 0.5%, payable in monthly installments of principal and interest sufficient to fully amortize unpaid principal over the term of the note plus 15 years. Monthly principal and interest payment was \$36,117 at December 31, 2003. Maturity date is August 1, 2008 (collateralized by mortgage, security interest in business assets of continuing care retirement community, pledge of \$650,000 certificate of deposit, assignment of leases and rents and guaranteed by the members' shareholders).	6,128,775	-
Promissory note, with interest fixed at 7%, payable in 39 quarterly installments of \$7,018 each and a final installment of \$207,340 due on August 1, 2013 (collateralized by a second mortgage and security interest in business assets of continuing care retirement community).	298,262	-
Insurance premium financing agreement, with interest fixed at 5.85%, payable in nine monthly installments of \$52,325. Final payment due August 1, 2004.	29,648	-
Total long-term debt	11,404,405	5,028,384
Current portion of long-term debt	336,381	80,664
	<u>\$ 11,068,024</u>	<u>\$ 4,947,720</u>

**Westfield Associates, LLC**  
**Notes to Financial Statements, Continued**

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**3. Long-term Debt, continued:**

The scheduled maturities of long-term debt as of December 31, 2003 are as follows:

2004	\$ 336,381
2005	5,102,093
2006	243,793
2007	252,885
2008	5,469,253
	<u>\$ 11,404,405</u>

**4. Interest Rate Swap Contracts:**

Statement of Financial Accounting Standards (SFAS) No. 133, "*Accounting for Derivative Instruments and Hedging Activities*" including SFAS No. 138, "*Accounting for Certain Derivative Instruments and Certain Hedging Activities - an amendment of FASB Statement No. 133*" establishes accounting and reporting standards requiring that every derivative financial instrument be recorded on the balance sheet at its fair value. SFAS No. 133 and 138 require all changes in the derivative's fair value be recognized currently in earnings unless specific hedge accounting criteria are met. Special accounting for qualifying hedges allows a derivative's gains and losses to offset related results on the hedged item in other comprehensive income, and requires that the Company must formally document, designate, and assess the effectiveness of transactions that receive cash flow hedge accounting. SFAS No. 133 could increase the volatility in earnings and other comprehensive income.

The Company has entered into interest rate swap contracts to reduce its exposure to market risks from changes in interest rates. In accordance with the contracts, the Company will pay interest at fixed rates of 7.99% and 8.10% for the mortgage note payable and the construction note payable, respectively, and will receive interest at a variable rate equal to the rate on the debt hedged. The swap contracts for the mortgage note payable and the construction note payable have notional principal amounts equal to the amounts on the corresponding debt instrument. The interest rate swap contracts mature in April 2005, which is when the related debt matures.



**Westfield Associates, LLC**  
**Notes to Financial Statements, Continued**

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**4. Interest Rate Swap Contracts, continued:**

The Company has designated its interest rate swap contracts as cash flow hedges of anticipated interest payments under its variable rate mortgage note payable and construction note payable. The fair value of the interest rate swaps at December 31, 2003 and 2002 are (\$304,309) and (\$481,866), respectively. The Company recorded a gain of \$177,557 and a loss of \$191,684 as other comprehensive income for the years ended December 31, 2003 and 2002, respectively. The Company is exposed to credit loss in the event of non-performance by the counter parties to the interest rate swap agreements. The Company does not anticipate nonperformance by the counter parties. Assuming an increase in the fair value of the interest rate contracts an amount may be reclassified from other comprehensive income to earnings in the next twelve months.

**5. Concentration of Credit Risk:**

Substantially all the Company's cash is on deposit with one major bank. Deposits in excess of \$100,000 are not insured by the Federal Deposit Insurance Corporation.

**6. Pension Plan:**

The Company has a retirement savings program, commonly referred to as SIMPLE. This program is available to all employees who have received at least \$5,000 in compensation in the prior and current calendar year. This plan provides for a Company match of an employee's contribution dollar for dollar, up to 3% of their compensation. The Company contributed \$4,880 and \$4,715 to the plan in 2003 and 2002, respectively.

**Westfield Associates, LLC**  
**Notes to Financial Statements, Continued**

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**7. Fair Value of Financial Instruments:**

The following table reflects a comparison of the carrying amounts and fair values of financial instruments of the Company:

	<b>2003</b>		<b>2002</b>	
	<b>Carrying Amount</b>	<b>Fair Value</b>	<b>Carrying Amount</b>	<b>Fair Value</b>
Cash and cash equivalents	\$ 1,009,912	\$ 1,009,912	\$ 1,015,459	\$ 1,015,459
Long-term debt	11,404,405	11,404,405	5,028,834	5,028,834
Interest rate swap	(304,309)	(304,309)	(481,866)	(481,866)

The carrying amount of cash and cash equivalents approximate their fair value principally due to the short-term nature of these instruments. The fair value of the Company's long-term debt approximates the carrying amounts by virtue of the variable rate interest arrangements associated with the majority of the debt. The fair value of the interest rate swap agreements generally reflect the estimated amounts the Company would (pay) or receive to terminate the agreements at December 31, 2003 and 2002, respectively.

**Westfield Associates, LLC**  
**Schedule of Division Balance Sheets**  
*December 31, 2003*

	The Home Place	Sanders Glenn	Corporate Cost Center	Sub Totals	Morning Breeze	Total Westfield Associates, LLC
<b>ASSETS</b>						
Current assets:						
Cash and cash equivalents	\$6,061	\$5,048	\$969,304	\$980,413	\$29,499	\$1,009,912
Accounts receivable	1,985	18,421	-	20,406	193,728	214,134
Supplies, at cost	-	3,973	-	3,973	-	3,973
Prepaid expenses and other current assets	6,254	15,144	5,785	27,183	77,381	104,564
Due from (to) Affiliate	212,444	1,423,148	(1,416,563)	219,029	(219,029)	-
Total current assets	226,744	1,465,734	(441,474)	1,251,004	81,579	1,332,583
Property and equipment, at cost:						
Land	119,772	203,576	-	323,348	378,000	701,348
Buildings	1,087,312	3,603,395	-	4,690,707	5,474,000	10,164,707
Furniture and fixtures	98,799	374,622	-	473,421	645,044	1,118,465
Construction work-in progress	-	7,585	-	7,585	-	7,585
	1,305,883	4,189,178	-	5,495,061	6,497,044	11,992,105
Less accumulated depreciation	359,473	1,107,211	-	1,466,684	121,267	1,587,951
Total property and equipment, net	946,410	3,081,967	-	4,028,377	6,375,777	10,404,154
Deferred financing fees, net	-	-	3,838	3,838	102,563	106,401
Total assets	\$1,173,154	\$4,547,701	(\$437,636)	\$5,283,219	\$6,559,919	\$11,843,138

**Westfield Associates, LLC**  
**Schedule of Division Balance Sheets, continued**  
*December 31, 2003*

**LIABILITIES AND MEMBERS EQUITY (DEFICIT)**

	The Home Place	Sanders Glenn	Corporate Cost Center	Sub Totals	Morning Breeze	Total Westfield Associates, LLC
Current liabilities:						
Accounts payable	\$7,177	\$11,604	\$26,757	\$45,538	\$49,153	\$94,691
Accrued expenses	63,537	114,878	7,475	185,890	95,514	281,404
Accrued interest	4,840	19,473	-	24,313	21,954	46,267
Security deposits	25,420	74,960	-	100,380	26,193	126,573
Current portion of long-term debt	18,471	62,193	-	80,664	255,717	336,381
Total current liabilities	119,445	283,108	34,232	436,785	448,531	885,316
Interest rate swap liability	-	-	304,309	304,309	-	304,309
Long-term debt, excluding current portion	972,776	3,894,280	-	4,867,056	6,200,968	11,068,024
Total liabilities	1,092,221	4,177,388	338,541	5,608,150	6,649,499	12,257,649
Members' equity (deficit):						
Members' equity (deficit)	80,933	370,313	(471,868)	(20,622)	(89,580)	(110,202)
Accumulated other comprehensive loss	-	-	(304,309)	(304,309)	-	(304,309)
Total member's equity (deficit)	80,933	370,313	(776,177)	(324,931)	(89,580)	(414,511)
Total liabilities and members' equity (deficit)	\$1,173,154	\$4,547,701	(\$437,636)	\$5,283,219	\$6,559,919	\$11,843,138

**Westfield Associates, LLC**  
**Schedule of Division Statements of Income and Comprehensive Income**  
*for the years ended December 31, 2003*

	The Home Place	Sanders Glenn	Corporate Cost Center	Sub Totals	Morning Breeze	Total Westfield Associates, LLC
Operating revenues	\$444,416	\$1,626,280	-	\$2,070,696	\$1,264,302	\$3,334,998
Interest income	-	-	\$9,820	9,820	-	9,820
Total revenues	444,416	1,626,280	9,820	2,080,516	1,264,302	3,344,818
Operating expenses	278,245	925,528	112,268	1,316,041	1,123,046	2,439,087
Interest expense	31,361	125,026	253,294	406,681	100,479	507,160
Depreciation and amortization	53,877	205,413	3,070	262,360	130,357	392,717
Total expenses	363,483	1,255,967	365,632	1,985,082	1,353,882	3,338,964
Net income (loss)	80,933	370,313	(355,812)	95,434	(89,580)	5,854
Other comprehensive income:						
Gain on derivative instruments	-	-	177,557	177,557	-	177,557
Comprehensive income (loss)	\$80,933	\$370,313	(\$178,255)	\$272,991	(\$89,580)	\$183,411

**Westfield Associates, LLC**  
**Schedule of Division Statements of Cash Flows**  
*for the years ended December 31, 2003*

	The Home Place	Sanders Glenn	Corporate Cost Center	Sub Totals	Morning Breeze	Total Westfield Associates, LLC
Cash flows from operating activities:						
Net income (loss)	\$80,933	\$370,313	(\$355,812)	\$95,434	(\$89,580)	\$5,854
Adjustments to reconcile net income (loss) to net cash (used in) provided by operating activities:						
Depreciation and amortization	53,877	205,413	3,070	262,360	130,357	392,717
Change in operating assets and liabilities:						
Accounts receivable	(1,085)	(7,379)	-	(8,464)	(193,728)	(202,192)
Supplies	-	281	-	281	-	281
Prepaid expenses and other current assets	1,611	2,126	(4,478)	(741)	(77,381)	(78,122)
Accounts payable	680	2,404	(4,885)	(1,801)	49,153	47,352
Accrued expenses	12,997	20,635	(13,148)	20,484	95,514	115,998
Accrued interest	(90)	(306)	-	(396)	21,954	21,558
Security deposits	5,647	748	-	6,395	26,193	32,588
Net cash provided by (used in) operations	154,570	594,235	(375,253)	373,552	(37,518)	336,034
Cash flows used in investing activities:						
Acquisition of Morning Breeze assets	-	-	-	-	(6,480,000)	(6,480,000)
Additions to property and equipment	(26,992)	(11,913)	-	(38,905)	(17,044)	(55,949)
Net cash (used in) provided by investing activities	(26,992)	(11,913)	-	(38,905)	(6,497,044)	(6,535,949)
Cash flows from financing activities:						
Advance (to) from other divisions	(116,636)	(656,363)	553,970	(219,029)	219,029	-
Financing costs	-	-	-	-	(111,653)	(111,653)
Proceeds from new borrowings	-	-	-	-	6,553,366	6,553,366
Payments on long-term debt	(18,470)	(62,194)	-	(80,664)	(96,681)	(177,345)
Capital withdrawals by members	-	-	(70,000)	(70,000)	-	(70,000)
Net cash (used in) provided by financing activities	(135,106)	(718,557)	483,970	(369,693)	6,564,061	6,194,368
Net (decrease) increase in cash and cash equivalents	(7,528)	(136,235)	108,717	(35,046)	29,459	(5,547)
Cash and cash equivalents at beginning of year	13,589	141,283	860,587	1,015,459	-	1,015,459
Cash and cash equivalents at end of year	\$6,061	\$5,048	\$969,304	\$980,413	\$29,499	\$1,009,912
Supplemental disclosures of cash flow information:						
Cash paid for interest	\$31,451	\$125,332	\$250,294	\$407,077	\$78,525	\$485,602

## **APPENDIX E**

### **DEFINITIONS OF CERTAIN TERMS AND SUMMARIES OF PRINCIPAL DOCUMENTS**

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**DEFINITIONS OF CERTAIN TERMS AND SUMMARIES OF PRINCIPAL DOCUMENTS**

**DEFINITIONS**

*The following are definitions of certain terms used in this Official Statement, including this Appendix E.*

“Acceleration Premium” means (i) with respect to any Series 2005 Bonds, the then applicable Optional Redemption premium for the applicable series of Series 2005 Bonds, or if such Bonds are not then subject to Optional Redemption, the highest Optional Redemption premium applicable at any time with respect to such series of Series 2005 Bonds; provided that in the event that the acceleration results from a Determination of Taxability, the premium will be (a) five percent (5%) of the principal amount of the Series 2005A Bonds, (b) zero percent (0.0%) of the principal amount of the Series 2005B Bonds, and (c) five percent (5%) of the principal amount of the Series 2005C Bonds, and (ii) with respect to any Additional Bonds, the amount specified in the Supplemental Indenture authorizing the issuance thereof.

“Accounts Receivable” means any and all accounts receivable as determined in accordance with generally accepted accounting principles, consistently applied, including, without limitation, all such accounts receivable from Medicare, Medicaid or any other third party payor program, loans receivable and any other receivables of a Borrower.

“Additional Bonds” mean all Bonds, other than Series 2005 Bonds, that are authenticated and delivered pursuant to the Indenture.

“Additional Bonds Loan Agreement” means the loan agreement pursuant to which the Authority loans the Borrowers the proceeds of any Additional Bonds.

“Administrative Expenses” means (i) all reasonable fees and expenses of the Authority (including attorneys' fees) incurred with respect to any Bonds so long as any Bonds are Outstanding, (ii) the annual fee payable by the Borrowers to the Authority pursuant to the Loan Agreement, and (iii) all fees and expenses of the Trustee (including attorneys' fees) as agreed by the Trustee and the Borrowers.

“Affiliate” means a corporation, partnership, joint venture, association, business trust or similar entity organized under the laws of one of the states of the United States of America: (a) which directly or indirectly controls, is controlled by or is under common control with a Borrower; or (b) a majority of the members of the Directing Body of which are the same as the Directing Body of a Borrower. For the purposes of this definition, control means with respect to: (a) a corporation having stock, the ownership, directly or indirectly, of more than 50% of the securities (as defined in Section 2(1) of the Securities Act of 1933, as amended) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the directors of such corporation; (b) a not-for-profit corporation not having stock, having the power to elect or appoint, directly or indirectly, a majority of the Directing Body of such corporation; or (c) any other entity, having the power to direct the management of such entity through the ownership of at least a majority of its voting securities or the right to designate or elect at least a majority of the members of its Directing Body, by contract or otherwise. For the purposes of this definition, “Directing Body” means: (a) with respect to a corporation having stock, such corporation's board of directors or the owners, directly or indirectly, controlling that corporation as defined in (a) above; (b) with respect to a not-for-profit corporation not having stock, such corporation's members if the members have complete discretion to elect the corporation's directors, or the corporation's directors if the corporation's members do not have such discretion; and (c) with respect to any other entity, its governing board or body.

“Annual Evaluation Date” means the last day of each Fiscal Year of the Borrowers commencing with December 31, 2005.

“Applicable Interest Rate” means with respect to the Series 2005A Bonds, a variable rate per annum equal to the federal funds target rate as announced by the Federal Open Market Committee of the Federal Reserve Board

and published in Money Rates Section of *The Wall Street Journal* from time to time plus three and twenty-five hundredths percent (3.25%).

“Architect” means any architect, engineer or firm of architects or engineers which is Independent and which is appointed by the Borrowers to report and be accountable to the Trustee for the benefit of the Owners of the Series 2005 Bonds for the purpose of passing on questions relating to the design, construction and cost of any particular facility, has all licenses and certifications necessary for the performance of such services, has a favorable reputation for skill and experience in performing similar services in respect of facilities of a comparable size and nature and is not unacceptable to a Majority of the Owners of the Senior Bonds.

“Authorized Borrower Certificate” means a certificate signed by the Authorized Borrower Representative.

“Authorized Borrower Representative” means initially either F. Scott Kellman or John E. Gillmor, and such other person or persons as may be designated by the Borrowers, from time to time, in a Certificate of the Borrowers filed with the Trustee.

“Authorized Denominations” means: (i) with respect to any Series 2005 Bonds, \$100,000, and integral multiples of \$5,000 for any amounts in excess of \$100,000, and (ii) with respect to any series of Additional Bonds, the authorized denomination for such series of Bonds set forth in the applicable Supplemental Indenture.

“Authorized Officer” means: (i) in the case of the Authority, and when used with reference to any act or documents means any person authorized by resolution of the Authority, a certified copy of which has been delivered to the Trustee, to perform such act or execute such documents; (ii) in the case of a Borrower or the Manager, the person or persons authorized by corporate resolution, a certified copy of which has been delivered to the Trustee, of the governing body of such Borrower or the Manager, as the case may be, to perform any act or execute any document; and (iii) in the case of the Trustee, any person authorized to perform any act or sign any document by or pursuant to the by-laws or any resolution of the governing body of the Trustee.

“Base Management Fees” means 70% of the monthly management fee payable pursuant to the Management Agreement.

“Beneficial Owner” means the beneficial owner of any Bonds listed in the Beneficial Owner Register provided in the Indenture.

“Beneficial Owner Register” is defined in of the Indenture.

“Bond Fund” means the fund so designated which is established pursuant to the Indenture.

“Bond Register” means the register of Bonds as defined in the Indenture.

“Bonds” means the Series 2005 Bonds and any Additional Bonds issued under the Indenture.

“Book Entry System” means a book entry system established and operated for the Series 2005 Bonds pursuant to the Indenture.

“Book Value”, when used with respect to Property of any Borrower, means the value of such Property, net of accumulated depreciation and amortization, as reflected in the most recent audited financial statements of such Borrower or in the most recent audited combined financial statements of the Borrowers, as the case may be, provided that the Book Value of the Property of the Borrowers is to be calculated in such a manner that no portion of the value of any Property of any Borrower is included more than once.

“Borrowers” mean, collectively, American Eagle Home Place, LLC, American Eagle Sanders Glen, LLC and American Eagle Morning Breeze, LLC, each an Indiana limited liability company the sole member of which is American Eagle Lifecare.

“Business Day” means any day on which the Trustee is open for business.

“Capital Addition” means any and all improvements to the Facilities, including Extraordinary Repairs and the 2005 Repairs and Replacements, the cost of which is properly chargeable to a plant or property account under GAAP, including, without limiting the generality of the foregoing, equipment, furnishings, replacements of property retired, and permanent additions and betterments.

“Capitalized Lease” means any lease of real or personal property required to be capitalized on the balance sheet of the lessee.

“Capitalized Rentals” means the amount at which the aggregate Net Rentals due and to become due from any Person would be reflected as a liability on a balance sheet of such Person.

“Cash Available for Debt Service” means, with respect to a particular period, the following (all determined in accordance with GAAP): (a) Net Revenues for such period, less (b) all Operating Expenses for such period, plus (c) to the extent included in Operating Expenses, expenses incurred or recognized during such period in respect of (i) the Debt Service Requirements on all Long-Term Indebtedness, (ii) the amortization of financing charges on all Long-Term Indebtedness, (iii) the amortization costs attributable to the acquisition of the Facilities, (iv) depreciation attributable to the Facilities and (v) Subordinated Management Fees.

“Certificate” means a certificate or report, in form and substance not unsatisfactory to the Trustee, executed: (a) in the case of a Certificate of the Authority, by an Authorized Officer of the Authority; (b) in the case of a Certificate of a Borrower, by an Authorized Officer of such Borrower; and (c) in the case of a Certificate of any other Person, by such Person, if an individual, and otherwise by an officer, partner or other authorized representative of such Person; provided that in no event may any individual be permitted to execute any Certificate in more than one capacity.

“Certified Public Accountant” means a firm (which is not an employee of either the Authority, any of the Borrowers, American Eagle Lifecare, or the Manager), which is a nationally or regionally recognized accounting firm actively engaged in the business of public accounting and duly certified as a certified public accountant under the laws of the state in which the Facilities are located and which is not unacceptable to the Owners of a Majority of the Senior Bonds.

“Closing” means the time at which the Borrowers execute and deliver to the Authority the Loan Agreement and the Mortgages and the Authority delivers the Series 2005 Bonds.

“Closing Statement” means the closing statement delivered at the time of settlement of any Bonds, signed by an Authorized Officer of the Authority and approved by the Authorized Borrower Representative, specifying the deposits to be made with the proceeds of such Bonds and the payments to be made with such proceeds, including the Persons to which each payment is to be made and the amount of each such payment.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations now or at any time hereafter promulgated thereunder.

“Collateral Document” means any written instrument other than the Financing Documents, whereby any property or interest or rights in property of any kind is granted, pledged, conveyed, assigned, or transferred to the Authority or Trustee, or both, as security for payment of the Bonds or performance by the Borrowers of their obligations under the Series 2005 Notes or the Financing Documents.

“Construction Contracts” means the construction contracts and other agreements between a Borrower and third parties for the construction of any Capital Addition.

“Construction Index” means the most recent issue of the “Dodge Construction Index for U.S. and Canadian Cities” with reference to the city in which the subject property is located (or, if such Index is not available for such city, with reference to the city closest geographically to the city in which the subject property is located), or, if such

Index is no longer published or used by the federal government in measuring costs under Medicare and Medicaid programs, such other index which is certified to be comparable and appropriate by the Authorized Borrower Representative in an Officer's Certificate delivered to the Trustee.

"Consultant" means a professional consulting firm acceptable to the Trustee, recognized as having the skill and experience necessary to render the particular report required, which firm is Independent and is not unacceptable to a Majority of the Owners of the Senior Bonds.

"Corporate Charter" means the document as amended pursuant to which a corporation was organized.

"Cost" or "Costs," in connection with any Facility, means any cost incurred which is reasonable and necessary with respect to the acquisition of such Facility, including the cost of necessary studies, surveys, architectural, engineering, legal or other special services, development, the reasonable cost of financing incurred by the Borrowers or the Authority in connection with the execution of the Indenture or the issuance and payment of the Series 2005 Bonds.

"CPI" means the Consumer Price Index for all Urban Consumers (C.P.I.U.), All Cities Index, published by the Bureau of Labor Statistics, U.S. Department of Labor.

"Current Value" means (i) with respect to Property, Plant and Equipment: (a) the aggregate fair market value of such Property, Plant and Equipment as reflected in the most recent written report of an appraiser, in the case of real property, who is a member of the American Institute of Real Estate Appraisers (MAI), delivered to the Trustee (which report may be dated not more than three years prior to the date as of which Current Value is to be calculated) increased or decreased to reflect the percentage change in the Construction Index from the date of such report; plus (b) the Book Value of any Property, Plant and Equipment acquired since the last such report increased or decreased to reflect the percentage change in the Construction Index from the date of such acquisition to the date as of which Current Value is to be calculated; minus (c) the greater of the Book Value or the fair market value (reflected in such report) of any Property, Plant and Equipment disposed of since such report increased or decreased to reflect the percentage change in the Construction Index, and (ii) with respect to any other Property the fair market value of such Property, which fair market value may be evidenced in a manner satisfactory to the Trustee.

"Days Cash-On-Hand" means the number determined as of each Quarterly Evaluation Date by (A) multiplying (i) the number of days in the quarter, by (ii) the amounts in the Facilities operating bank accounts and in the Operating Reserve Fund consisting of cash and Permitted Investments as of the last day of the quarter and amounts available to be drawn under the Line of Credit Loan and (B) dividing the amount determined in clause (A) by an amount equal to the total Operating Expenses of the Borrowers for the quarter ending on such Quarterly Evaluation Date, plus one fourth of the amount of principal payable on any Long-Term Indebtedness (other than the Subordinated Bonds and the Line of Credit) in the related Fiscal Year, and less any bad debts to the extent included in Operating Expenses and all depreciation and amortization for such quarter.

"Debt Service Coverage Covenant" means the covenants set forth in the Loan Agreement, wherein the Borrowers agree to establish and charge such rents, fees and other charges relating to the Facilities and to restrict operating and maintenance expenses relating to the Facilities as is necessary to achieve a Debt Service Coverage Ratio as of each Annual Evaluation Date, commencing December 31, 2006, and as of each Quarterly Evaluation Date, commencing March 31, 2006, of at least 1.15.

"Debt Service Coverage Ratio" means: (a) as of any Annual Evaluation Date, the ratio of Cash Available for Debt Service for the Fiscal Year then ended to the sum of (i) Debt Service Requirements on the Series 2005A Bonds for the Fiscal Year in question, plus (ii) the Maximum Debt Service Requirements for all Long-Term Indebtedness (other than the Series 2005A Bonds, the Series 2005C Bonds and the Line of Credit), outstanding as of the Annual Evaluation Date; and (b) as of any Quarterly Evaluation Date, the ratio of Cash Available for Debt Service for the for the fiscal quarter then ended to the sum of (i) Debt Service Requirements on the Series 2005A Bonds for the quarter in question, plus (ii) 25% of the Maximum Debt Service Requirements for all Long-Term Indebtedness (other than the Series 2005A Bonds, the Series 2005C Bonds and the Line of Credit) for the applicable Fiscal Year outstanding as of the Quarterly Evaluation Date.

“Debt Service Requirements” with reference to specified indebtedness for a specified period means the sum of (i) interest payable on such indebtedness during the period except interest to be paid from the proceeds of such indebtedness and (ii) the total amount of the principal payable on such indebtedness of the Borrowers, or for which provision for payment must be made during such period, whether at maturity or upon mandatory redemption thereof.

“Default” means any Event of Default under the Indenture, the Mortgages, or the Loan Agreement or any event or condition which, with the giving of notice or the passage of time, or both, would constitute an Event of Default under the Indenture, the Mortgages, or the Loan Agreement.

“Determination of Taxability” means a determination that the interest income on any of the Tax Exempt Bonds does not qualify as excludable from gross income of the Owners thereof (“exempt interest”) for any reason, which determination is to be deemed to have been made upon the first to occur of any of the following: (a) the date on which the Trustee is notified in writing that an Opinion of Bond Counsel is unable to be delivered to the effect that the interest on such Tax Exempt Bonds qualifies as such exempt interest; provided, however, that the Borrowers have 60 days from the delivery of such notice to provide the Trustee with an Opinion of Bond Counsel to the effect that the interest on such Tax Exempt Bonds qualifies as such exempt interest; (b) the date on which any change in law or regulation becomes effective or on which the Internal Revenue Service issues any public or private ruling, technical advice memorandum or any other written communication or on which there occurs a ruling or decision of a court of competent jurisdiction with or to the effect that the interest income on any of the Tax Exempt Bonds does not qualify as such exempt interest; or (c) the date on which the Borrowers receive notice from the Trustee in writing that the Trustee has been notified by the Internal Revenue Service, or has been advised by the Authority, the Borrowers or any Owner or former Owner that the Internal Revenue Service has issued a thirty-day letter or other notice which asserts that the interest on any of the Tax Exempt Bonds does not qualify as such exempt interest. Nothing in this definition of “Determination of Taxability” is to be construed to mean that the Trustee or any Owner of any Bond have any obligation to contest or appeal any assertion or decision that any interest payable under the Bonds is subject to taxation.

“Discount Indebtedness” means any Indebtedness which is initially sold at a discount from the face amount thereof.

“DTC” means The Depository Trust Company or its nominee, Cede & Co.

“DTC Blanket Letter of Representations” means the DTC Blanket Letter of Representations between the Authority and DTC, as amended from time to time.

“Encumbered” means subject to a Lien.

“Escrow Securities” means, (i) with respect to any series of the Series 2005 Bonds, the obligations permitted to be used to defease such series of Series 2005 Bonds under the Indenture, and (ii) in all other cases, (a) United States Government Obligations, or (b) certificates of deposit which are fully insured by the Federal Deposit Insurance Corporation or similar corporation chartered by the United States or if issued by a bank or trust company if such certificates are secured by a pledge of any United States Government Obligations having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured, or (c)(1) evidences of a direct ownership in future interest or principal payments on United States Government Obligations which United States Government Obligations are held in a custody account by a custodian and pursuant to the terms of a custody agreement satisfactory to the Trustee and (2) obligations issued by any state of the United States or any political subdivision, public instrumentality or public authority of any state, which obligations are fully secured by and payable solely from direct obligations of, or obligations the principal of and interest on which are fully guaranteed by, the United States of America, which security is held pursuant to an agreement in form and substance acceptable to the Trustee.

“Expense Fund” means the fund so designated which is established pursuant to the Indenture

“Extraordinary Redemption” means the redemption of the Bonds pursuant to the Indenture.

“Extraordinary Repairs” means repairs, renewals, and/or replacements with respect to the Facilities which are necessary or desirable for proper operation and maintenance thereof and which are of a type which ordinarily would not be made by the Borrowers out of current revenues as current Operating Expenses, and includes the restoration or replacement of any buildings, equipment or other property damaged or destroyed by fire or other casualty.

“Facilities” means, collectively, the real property and the facilities, structures, buildings and improvements located thereon, together with all fixtures, machinery, equipment, furniture, furnishings and other personal property attached to, located in, or used in connection with each of the following facilities, whether now owned or hereafter acquired: (i) The Home Place, currently a 60-unit senior adult independent living facility located at 6612-6745 Millside Drive, Indianapolis, Marion County, Indiana; (ii) Sanders Glen, currently a 111-unit rental retirement community located at 334 South Cherry Street, Westfield, Hamilton County, Indiana; (iii) Morning Breeze Retirement Community & Healthcare Center, currently a 44-bed comprehensive care nursing facility, 31-bed residential care facility and 18-unit senior adult independent living facility located at 950 North Lakeview Drive, Greensburg, Decatur County, Indiana, all as more specifically described in the Loan Agreement and the Indenture; and all additions thereto and improvements thereof now or hereafter constructed or acquired by or for the Borrowers; together with all other real property of the Borrowers now owned or hereafter acquired, the buildings, structures and other improvements located thereon, together with all Capital Additions and all additions thereto and improvements thereof now or hereafter constructed or acquired by or for the Borrowers and all fixtures, machinery, equipment, furniture, furnishings and other personal property hereafter attached to, located in, or used in connection with any such structures, buildings or improvements, and all additions, substitutions and replacements thereto, whether now owned or hereafter acquired.

“Financial Covenants” means the financial covenants set forth in the Loan Agreement.

“Financing Documents” means the Bonds, the Loan Agreement, the Indenture, the Series 2005 Notes and the Mortgages.

“Fiscal Year” means (i) the period of 12 months beginning January 1 or (ii) such other consecutive 12-month period selected by the Borrowers as the fiscal year for accounting purposes after not less than 30 days prior written notice to the Authority, the Trustee and each Owner informing them of the contemplated change.

“GAAP” means those principles promulgated by the Financial Accounting Standards Board or such other body recognized as authoritative by the American Institute of Certified Public Accountants.

“General Contractor” means, as to any Capital Addition, any Person who is appointed by the Borrowers and qualified to serve as the general contractor or construction manager with respect to such Capital Addition.

“Governing Body” means, with respect to any Borrower, the board of directors or similar body in which the right to exercise the powers of corporate directors is vested.

“Gross Revenues” means all receipts, revenues, rentals, income and other moneys received or receivable by or on behalf of the Borrowers from any source, whether or not in connection with the ownership or the operation of all or any part of the Facilities, including, without limitation, any amounts received pursuant to an Interest Rate Cap, all fees paid or payable by or on behalf of patients or residents and all other operating and non-operating revenues, and all rights to receive the same whether in the form of accounts, Accounts Receivable, contract rights, chattel paper, instruments, general intangibles or investment property of the Borrowers and the proceeds thereof, the proceeds of any insurance coverage on and condemnation awards in respect of the Facilities or any gain on the sale or other Borrower disposition of property; all of the foregoing, whether now existing or hereafter coming into existence and whether now owned or held or hereafter acquired by the Borrowers; and including all gifts, grants, bequests, donations and contributions, except those heretofore or hereafter made, designated at the time of making by the donor or maker as being for certain specified purposes inconsistent with the application thereof to the payments due from the Borrowers under the Loan Agreement or the Indenture and except any income derived therefrom to the extent required by such designation or restriction.

“Guaranty” means all obligations of a Person guaranteeing or, in effect, guaranteeing any Indebtedness, dividend or other obligation of any Primary Obligor in any manner, whether directly or indirectly, including but not limited to obligations incurred through an agreement, contingent or otherwise, by such Person: (1) to purchase such Indebtedness or obligation or any Property constituting security therefor; (2) to advance or supply funds: (i) for the purchase or payment of such Indebtedness or obligation, or (ii) to maintain working capital or other balance sheet condition; (3) to purchase securities or other Property or services primarily for the purpose of assuring the owner of such Indebtedness or obligation of the ability of the Primary Obligor to make payment of the Indebtedness or obligation; or (4) otherwise to assure the owner of such Indebtedness or obligation against loss in respect thereof.

“Holdback” means ten percent (10%) of the amount of each requisition relating to construction, as defined in the Indenture.

“Indebtedness” means collectively, but without duplication, (i) indebtedness or liability for borrowed money or the deferred purchase price of property or services; (ii) obligations as lessee under leases which are, should be or should have been reported as capital leases in accordance with GAAP; (iii) any guaranty and any contingent obligation to purchase, to provide funds for payment, to supply funds to invest in any Person or otherwise to assure a creditor against loss; and (iv) all other items or obligations which would be included in determining total liabilities on the balance sheet of any Person prepared in accordance with GAAP; provided, however, the Indebtedness may not include (i) reserve payments required to be deposited into any reserve funds pursuant to the provisions of the Indenture, (ii) any obligation owed by one Borrower to any other Borrower or Borrowers, (iii) any obligation to reimburse any Person not a Borrower for the payment of any Indebtedness to the extent that such Indebtedness is counted as Indebtedness for purposes of the calculations under the Loan Agreement or the payment of the principal of and premium, if any, or the interest on any Series 2005 Bonds secured by an Indebtedness which is counted as Indebtedness for purposes of the calculations under the Loan Agreement, or (iv) obligations to provide future services created by payments on deposits received by any Borrower which are characterized as deferred revenues of such Borrower.

“Indenture” means the Trust Indenture, as it may be amended or supplemented from time to time in accordance with its terms.

“Independent” means, with respect to any Person, one which is not and does not have a partner, director, officer, member or substantial stockholder who is a member of the governing body of a Borrower, the Manager or any Affiliate, or an officer or employee of a Borrower, the Manager or any Affiliate; provided that the fact that a Person is retained regularly by or transacts business with a Borrower, the Manager or an Affiliate will not, in and of itself, cause such Person to be deemed to be an employee of a Borrower, the Manager or Affiliate for the purposes of the Indenture. Notwithstanding the foregoing, the fact that John E. Gillmor is a director, officer or member of American Eagle LifeCare Corporation or a Borrower does not disqualify any firm in which he is a member, partner or shareholder from being deemed Independent for the purposes of the Indenture.

“Independent Architect” means an Independent architect, engineer or firm of architects or engineers selected by a Borrower, not unacceptable to a Majority of Owners of the Senior Bonds, and permitted to practice in the state where the construction involved is located.

“Insurance Consultant” means a person or firm, including an insurance broker, who is Independent, appointed by the Authorized Borrower Representative and not unacceptable to a Majority of Owners of the Senior Bonds, qualified to survey risks and to recommend insurance coverage for Long-Term or other health care facilities and services of the type involved, and having a favorable reputation for skill and experience in such surveys and such recommendations.

“Interest Account” means each account so designated within the Bond Fund which is established pursuant to the Indenture for each series of Bonds.

“Interest Payment Date” means: (i) with respect to the Series 2005A Bonds, the first day of each month, commencing January 1, 2005; (ii) with respect to the Series 2005B Bonds and the Series 2005C Bonds, January 1 and July 1 of each year, commencing July 1, 2006; and (iii) with respect to any series of Additional Bonds, as provided in the applicable Supplemental Indenture creating such series.

“Initial Interest Rate Cap” means the initial Interest Rate Cap purchased by the Borrowers pursuant to Section 5.46 hereof.

“Interest Rate Cap” means an agreement, device or arrangement providing for payments which are related to fluctuations of interest rates, including, but not limited to an interest rate cap or swap or any agreement pertaining to another equity derivative transaction or similar financial instrument.

“Irrevocable Deposit” means with respect to any Indebtedness or portion thereof an irrevocable deposit in trust with a corporate trustee of cash (or Escrow Securities the principal of and interest on which will be) sufficient to pay when due the principal, premium of, and interest on such Indebtedness or such portion which would otherwise be considered Outstanding.

“Leverage Ratio” as of any date of calculation, means the ratio of (a) unrestricted and unencumbered cash and Permitted Investments including board designated funds and all Trustee-held funds other than the Bond Fund and the Rebate Fund to (b) the aggregate principal amount of the Series 2005 Notes and other Long-Term Indebtedness then Outstanding (including the Subordinate Bonds).

“Lien” means any mortgage, pledge, security interest, lien, charge or encumbrance of any nature whatsoever on, of or in any Property of a Borrower and any Capitalized Lease of a Borrower as lessee.

“Line of Credit” means the initial Line of Credit evidenced by the Line of Credit Note or any other loan for working capital.

“Line of Credit Note” means the unsecured Subordinated Line of Credit Note, dated October 1, 2005, in the aggregate principal amount of \$500,000, issued to Line of Credit Noteholder by the Borrowers.

“Line of Credit Noteholder” means Medical Rehabilitation Centers, Inc., and its successors and assigns.

“Liquidity Covenant” means the covenants set forth in the Loan Agreement, wherein the Borrowers agree to establish and maintain (i) a minimum balance of cash and cash equivalents in the Facilities bank operating accounts and the Operating Reserve Fund, plus (ii) undrawn amounts available to be drawn under the Line of Credit as of each Quarterly Evaluation Date, commencing with the December 31, 2005 Quarterly Evaluation Date as follows:

<u>Quarterly Evaluation Date</u>	<u>Days Cash-on-Hand</u>
December 31, 2005	15.0
March 31, 2006	15.0
June 30, 2006	17.5
September 30, 2006	17.5
December 31, 2006	20.0
March 31, 2007	20.0
June 30, 2007	22.5
September 30, 2007	22.5
December 31, 2007	25.0
March 31, 2008	25.0
June 30, 2008	27.5
September 30, 2008	27.5
December 31, 2008, and each Quarterly Evaluation Date thereafter	30.0

“Long-Term Indebtedness” means Indebtedness having a stated maturity greater than one year or renewable at the option of the debtor for a period greater than one year from the date of original issuance, excluding any Line of Credit.



“Majority of Owners” means Owners owning more than 50% of the aggregate principal amount of all Outstanding Series 2005 Bonds.

“Majority of the Owners of the Senior Bonds” means Owners owning more than 50% of the aggregate principal amount of all of the Outstanding Senior Bonds.

“Management Agreement” means the management agreement or agreements dated December 2, 2005 between the Borrowers and Medical Rehabilitation Centers, Inc., to manage the respective Facilities, as amended from time to time, and any other agreements for the management of the Facilities between a Borrower and any other Manager.

“Management Fees” means the fees payable to the Manager under the Management Agreement.

“Manager” means initially, Medical Rehabilitation Centers, Inc.; and such successor manager of the Facilities as may be selected, from time to time pursuant to the terms of the Loan Agreement.

“Material Capital Addition” means any Capital Addition having an aggregate construction cost in excess of \$250,000.

“Maximum Debt Service Requirements” means, at the time of calculation, the greatest amount of Debt Service Requirements on the Indebtedness in question for the current Fiscal Year or any future Fiscal Year.

“Maximum Trade Payables Level” means: (i) 90% of Trade Payables may not exceed 60 days; and (ii) and the remaining 10% may not exceed 90 days.

“Monetary Default” means an Event of Default under the Loan Agreement or the Mortgages arising as a result of the failure to pay amounts owing by the Borrowers thereunder, other than a failure to pay debt service on the Series 2005C Bonds because of a lack of revenues.

“Monthly Replacement Reserve Fund Deposit” means the monthly deposit required to be made into the Replacement Reserve Fund by the Borrowers pursuant to the Loan Agreement and the Indenture; and (i) which initially is \$6,666.67 per month, and (ii) which is to be adjusted on January 1 of each year incrementally with any increase in the CPI, commencing January 1, 2007, and (iii) which is to be increased as recommended in the physical condition report required every five years pursuant to the Loan Agreement.

“Moody's” means Moody's Investors Service, Inc., and its successors and assigns.

“Mortgages” means those certain Mortgages and Security Agreements from the Borrowers to the Trustee dated as of the date of the Indenture and the Loan Agreement relating to the Facilities and any other mortgage on Facilities executed and delivered by a Borrower to the Trustee, and all amendments and supplements thereto.

“Mortgaged Property” is defined in the Mortgages.

“Net Proceeds” when used with respect to any insurance or condemnation award, means the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all expenses (including attorney's fees, adjuster's fees and any expenses of the Trustee) incurred in the collection of such gross proceeds.

“Net Rentals” means all fixed rents payable under a lease of real or personal Property, including any sums payable upon the scheduled termination thereof, but excluding any amounts payable for maintenance, repairs, insurance, taxes and similar charges. Net Rentals for any future period under any so-called “percentage lease” is to be computed on the basis of the amount reasonably estimated to be payable thereunder for such period, but in any event not less than the amount paid or payable thereunder during the immediately preceding period of the same duration; provided that the amount estimated to be payable under any such percentage lease is to in all cases recognize any change in the applicable percentage called for by the terms of such lease.

“Net Revenues” means the total revenues of the Facilities, but as to interest earned on the funds and accounts created under the Indenture only such interest which is deposited to the Bond Fund or the Revenue Fund, all determined in accordance with GAAP consistently applied; provided, however, “Net Revenues” shall not include (i) any extraordinary gain or loss on the extinguishment of debt or any extraordinary gain or loss on the sale of an asset not in the ordinary course of business or other extraordinary items, (ii) any gift, grant, bequest, contribution or donation or any income or profits therefrom, or (iii) proceeds of insurance other than business interruption insurance.

“Not unacceptable to a Majority of the Owners of the Senior Bonds” means that a Majority of the Owners of the Senior Bonds have not filed a written objection to an action contemplated by the Indenture and the Loan Agreement within thirty (30) days of receiving written notice describing such action in reasonable detail from the Trustee. Such notice is to be sent by first-class mail, postage prepaid, and will be deemed received five days after mailing.

“Officer's Certificate” means a certificate signed, in the case of a corporation, by the President, any Vice President or such other Person designated the Governing Body of such corporation or, in the case of a certificate delivered by any other Person, the president, the vice president, the chief executive or chief financial officer of such other Person.

“Operating Account” means the account or accounts of the Borrowers or the Manager established for the purpose of paying the Operating Expenses for the Facilities.

“Operating Budget” means the annual budget prepared for the Facilities for each Fiscal Year by the Authorized Borrower Representative or the Manager pursuant to the Loan Agreement, which is to contain a month-by-month estimate of the Operating Expenses for such Fiscal Year, together with projected monthly cash flow statements for each month in such Fiscal Year, as it may be amended.

“Operating Expenses” means all operating expenses of the Borrowers, determined in conformity with GAAP consistently applied, including without limitation, debt service payments on Short-Term Indebtedness incurred for working capital purposes pursuant to the Loan Agreement, Management Fees and any interest due on accrued Management Fees, including accrued Subordinate Management Fees, home office fees paid to American Eagle LifeCare and any fees to be paid to officers or directors of the Governing Body of any Borrower in connection with the respective duties related to the Facilities, or any consulting fees incurred by a Borrower in connection with the Facilities.

“Operating Reserve Fund” means the fund established pursuant to the Indenture.

“Opinion of Bond Counsel” means an Opinion of Counsel by counsel nationally recognized to be experienced in matters relating to the issuance of bonds by states and their political subdivisions, including the exemption from taxation of the interest thereon and is not unacceptable to a Majority of the Owners of the Senior Bonds.

“Opinion of Counsel” means a written opinion of counsel who is Independent and who has a favorable reputation for skill with respect to the particular matter or matters addressed in such opinion and is not unacceptable to a Majority of the Owners of the Senior Bonds. In rendering any such written opinion, counsel may rely upon certificates from appropriate individuals with respect to relevant factual matters, provided that nothing has come to their attention which would lead them to believe that any of the representations contained in any such certificate are inaccurate in any respect.

“Optional Redemption” means the redemption of any Bonds at the option of the Authority as provided, in the case of the Series 2005 Bonds, in the Indenture, or, in the case of any Additional Bonds, in the Supplemental Indenture authorizing the issuance thereof.

“Outstanding” or “outstanding” means all Indebtedness which has been issued except (i) Indebtedness which is no longer deemed outstanding under its terms and with respect to which the obligor is no longer liable, (ii)

Indebtedness for which an Irrevocable Deposit has been made, and (iii) for the purpose of any waivers, consents, notices or other actions hereunder, Series 2005 Bonds held by any Borrower or Manager or any Affiliate thereof.

“Outstanding Bonds” mean all Bonds which have been authenticated and delivered by the Trustee under the Indenture, except the following:

- (a) Bonds canceled or delivered to the Trustee for cancellation.
- (b) Bonds that have become due (at maturity or on redemption, acceleration or otherwise) and for the payment, including interest accrued to the due date, of which sufficient money is held by the Trustee.
- (c) Bonds deemed paid pursuant to Article X.
- (d) Bonds in lieu of which other Bonds have been authenticated under the Indenture provisions relating to registration and exchange of Bonds or Indenture provisions relating to mutilated, lost, stolen, destroyed or undelivered Bonds.

In determining whether the Owners of the required principal amount of Bonds have taken any action under the Indenture with respect to approvals, consents or directions, Bonds owned by a Borrower or the Manager or any person controlling, controlled by or under common control with either of them are to be disregarded and deemed not to be Outstanding. In determining whether the Trustee will be protected in relying on any such action, only Bonds which the Trustee knows to be so owned may be disregarded.

“Owner” means the Registered Owner of any Bond and any Beneficial Owner of such Bond.

“Paying Agent” means the bank or banks, if any, designated as such hereunder or pursuant to the Indenture.

“Permitted Encumbrances” means the Indenture, any Loan Document, and, as of any particular time:

- (a) Liens arising by reason of good faith deposits with a Person in connection with tenders, leases of real estate, bids or contracts (other than contracts for the payment of money), deposits by a Person to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges; any Lien arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable a Person to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with workmen's compensation, unemployment insurance, pensions or profit sharing plans or other social security plans or programs, or to share in the privileges or benefits required for corporations participating in such arrangements;
- (b) any Lien on the Property of any Borrower permitted under the provisions of the Loan Agreement;
- (c) any Lien on Property if such Lien equally and ratably secures all the Series 2005 Notes related to the Senior Bonds;
- (d) leases of any Borrower as lessor relating to Property which is customarily the subject of such leases entered into primarily to provide for services to the residents of the Facilities, such as office space for physicians, food service facilities, gift shops and radiology or other ancillary services, any leases entered into in accordance with the Loan Agreement, leases, licenses or similar rights to use Property existing as of the date of the Loan Agreement,

and any renewals and extensions thereof, and any leases, licenses or similar rights to use Property whereunder a Borrower is lessee, licensee or the equivalent thereof upon fair and reasonable terms no less favorable to the lessor or licensor than would obtain in a comparable arm's-length transaction;

(e) Liens for taxes and special assessments which are not then delinquent or if then delinquent are being contested in accordance with the provisions of the Loan Agreement;

(f) utility, access and other easements and rights-of-way, restrictions, encumbrances and exceptions which do not materially interfere with or materially impair the operation of the Property of the Borrowers affected thereby (or, if such Property is not being then operated, the operation for which it was designed or last modified);

(g) any mechanic's, laborer's, materialmen's, supplier's or vendor's Lien or right in respect thereof if payment is not yet due under the contract in question or if such Lien is being contested in accordance with the provisions of the Loan Agreement;

(h) such minor defects and irregularities of title as normally exist with respect to Property similar in character to the Property of the Borrowers involved and which do not materially adversely affect the value of, or materially impair, the Property affected thereby for the purpose for which it was acquired or is held by the owner thereof;

(i) zoning laws and similar restrictions which are not violated by the Property or the use thereof of the Borrowers affected thereby;

(j) statutory rights under Section 291, Title 42 of the United States Code, as a result of Hill-Burton grants, and similar rights under other federal or state statutes;

(k) any interest of any state, any municipality and the public in and to tunnels, bridges and passageways over, under or upon a public way;

(l) Liens on or in Property given, bequeathed or devised to the owner thereof existing at the time of such gift, bequest or devise, provided that (i) such Liens attach solely to that Property, and (ii) the Indebtedness secured by such Liens is not assumed by any Borrower;

(m) Liens resulting from any judgment or award that is not yet final or is being contested, provided that stay of execution of such lien pending such contest has in good faith been obtained;

(n) Liens on moneys deposited by patients or others with a Person as security for or as prepayment of the cost of patient care or any rights of residents of life care, elderly housing or similar facilities to endowment or similar funds deposited by or on behalf of such residents;

(o) Liens on Property due to rights of third party payors for recoupment of excess payments;

(p) any security interest in any fund established pursuant to the terms of any Supplemental Indenture in favor of the Trustee, the Authority or the holder of the Indebtedness issued pursuant to such document;

(q) encumbrances, if any, set forth in Exhibit B of the Loan Agreement or Part B to the title insurance commitments issued by Chicago Title Insurance Corporation and delivered on the date of issuance of the Series 2005 Notes on Property of the Borrowers on the date of execution and delivery of the Loan Agreement;

(r) any Lien with respect to Property which Lien either secures the purchase price of such Property or is a Lien to which such Property is subject at the time of its acquisition by the Borrowers; provided that after giving effect thereto the aggregate Book Value of the Property, Plant and Equipment subject to liens under this paragraph does not exceed 5% of the aggregate Book Value of the Property, Plant and Equipment of the Borrowers as indicated on the combined balance sheet for the most recent Fiscal Year;

(s) the Mortgages; and

(t) any other Lien provided that, prior to incurring any such Lien, each Borrower is to certify to the Trustee that, after giving effect thereto, the aggregate Book Value of the Property subject to such Lien or any other Lien (except any Permitted Encumbrance under subparagraphs (a) through (t) above) does not exceed 3% of the aggregate Book Value of the Property, Plant and Equipment of the Borrowers as reflected on the combined balance sheet for the most recent available Fiscal Year.

“Permitted Investments” means any of the following which at the time are legal investments for moneys held hereunder and then proposed to be invested therein:

(a) United States Government Obligations;

(b) deposits, Federal funds or bankers' acceptances (with term to maturity of 270 days or less) of any bank which has an unsecured, uninsured and unguaranteed obligation rated at the time of purchase in one of the top three rating categories by Moody's or S&P;

(c) commercial paper rated at the time of purchase in one of the top three rating categories by Moody's or S&P;

(d) obligations of any agency of the United States of America or of any state of the United States or political subdivision thereof or constituted authority thereof rated at the time of purchase in one of the three highest Rating Categories by Moody's or S&P;

(e) both (A) shares of an open-end diversified investment company (as defined in the Investment Company Act of 1940) or a regulated investment company (as defined in Section 851(a) of the Code) that is a money market fund that is rated at the time of purchase in one of the three highest Rating Categories by Moody's or S&P, and (B) shares of money market mutual funds (including any money market fund for which the Trustee or any affiliate of the Trustee provides services for a fee) that invest only in United States Government Obligations and repurchase agreements secured by such obligations, which funds are rated at the time of purchase in one of the three highest Rating Categories for such funds by Moody's or S&P; and

(f) investment agreements with a bank, trust company, national banking association, insurance company, financial services company or other similar organization which is, rated in, or the parent of which (if the parent has fully guaranteed its subsidiary's obligations) is, at the time the agreement is entered into, rated in one of the three highest Rating Categories by either Moody's or S&P; provided that such agreement provides that it may be drawn upon and applied as provided herein and if the rating of the provider given by S&P or Moody's falls below such minimum rating requirement, the provider must immediately notify the Trustee in writing of such rating decline and the provider must collateralize such investment agreement with United States Government Obligations with a market value of 103% of the principal amount of the agreement marked to market weekly deposited with the Trustee, or with a third party custodian on behalf of the Trustee approved by, and upon documentation satisfactory to, the Trustee, within five Business Days of such rating decline and, if the Trustee, or such third party custodian, does not receive such

collateral within such period, the Trustee is to, upon at least two (2) Business Days notice to the provider, draw upon such investment agreement and deposit the proceeds in the applicable fund (all custodial fees are to be paid by the provider of such investment agreement).

“Person” means any natural person, firm, joint venture, association, partnership, business trust, corporation, limited liability company a joint stock company, a trust, any unincorporated organization, a public or governmental body, agency, any other political subdivision, municipality or authority or any group entity. or any other similar entity.

“Pledged Revenues” means the Gross Revenues of the Borrowers transferred to and received by the Trustee from the Borrowers and any and all amounts payable to the Authority or the Trustee under the Loan Agreement.

“Prepayment” means the amounts received by the Trustee or the Authority due to a prepayment as a whole or in part by the Borrowers of its obligations under the Loan Agreement.

“Primary Obligor” means the Person who is primarily obligated on an obligation which is guaranteed by another Person.

“Principal Account” means the account so designated within the Bond Fund which is established pursuant to the Indenture for each series of Bonds.

“Principal Office” means the designated corporate trust office of the Trustee.

“Principal Payment Date” means (i) in the case of the Series 2005 Bonds, each January 1 on which the principal of the Series 2005 Bonds is payable at maturity or by Sinking Fund Redemption or (ii) in the case of any Additional Bonds, any other date on which the principal thereof is payable either at maturity or upon Sinking Fund Redemption as provided in the Supplemental Indenture authorizing the issuance thereof.

“Proceeds” means, when used with respect to any insurance proceeds or condemnation award or amounts received from the sale of property under threat of condemnation, the amount remaining after deducting all expenses (including attorneys' fees and expenses of the Borrowers and the Trustee) incurred in the collection of such proceeds or award from the gross proceeds, but excluding proceeds of business interruption insurance.

“Project Fund” means any fund so designated which is to be established pursuant to the Indenture.

“Property” means interests in and to property whether real or personal, tangible or intangible.

“Property, Plant and Equipment” means all Property of each Borrower which is classified as property, plant and equipment under GAAP.

“Purchase Agreements” mean, collectively, (i) the Bond Purchase Agreement dated December 2, 2005 among the Authority, the Underwriter and the Borrowers; and (i) the Bond Purchase Agreement dated December 2, 2005 among the Authority, Westfield Associates, LLC and the Borrowers.

“Quarter” means the three month period ending the last day of each March, June, September and December.

“Quarterly” means during the three month period ending the last day of each March, June, September and December commencing December 31, 2005.

“Quarterly Evaluation Date” means the last day of each March, June, September and December commencing December 31, 2005.

“Rating Category” means any of the principal rating categories assigned to investment securities or credit facilities by Moody's or S&P, without regard to any gradation or distinction within any Rating Category (such as may be identified by numerical symbols or the symbols “+” or

“Rebate Amount” means all interest income and profits earned on investment of the proceeds of the Tax-Exempt Bonds which are required to be paid to the United States under Section 148(f) of the Code, calculated and determined in accordance with the Code, and any penalties in lieu of making payments of rebate amounts if the Authority has elected pursuant to Section 148(f)(4)(C)(vii) of the Code to pay such penalties to the United States.

“Rebate Fund” means the fund so designated which is to be established pursuant to the Indenture.

“Record Date,” for the Series 2005 Bonds, is the fifteenth day of the month next preceding each Interest Payment Date and, for each series of Additional Bonds, is the date described in the form of such series of Bonds.

“Registered Owner” means the person in whose name any Bond is registered as shown on the bond register maintained by the Trustee in accordance with the Indenture.

“Regulated Agreement” means any memorandum of understanding, affiliation agreement or other contract or arrangement that affects the composition or means of selection of a Borrower's Board of Directors or of the governing body of any Affiliate controlling such Borrower or which reserves or subjects to review or approval by any other entity the exercise of the powers and authority directly or indirectly vested in the Board of Directors of such Borrower on the date of the Loan Agreement.

“Regulatory Body” means any federal, state or local government, department, agency or instrumentality and other public or private body, including accrediting organizations, having regulatory jurisdiction and authority over the Borrowers or its facilities or operations.

“Related Notes” means all notes delivered to the Authority under the Loan Agreement or any Additional Bonds Loan Agreement to secure Bonds issued by the Authority, including the Series 2005 Notes.

“Replacement Reserve Fund” means the fund established pursuant to the Indenture.

“Replacement Reserve Fund Requirement” means the maximum balance required in the Replacement Reserve Fund, in the initial amount of \$160,000, and (i) which is to be adjusted each year on January 1 incrementally with any increase on the CPI, commencing January 1, 2007, and (ii) which is to be increased as recommended in the physical condition report required every five years per of the Loan Agreement.

“Report Date” means the date on which any financial or other report is required to be delivered to the Trustee in accordance with the Loan Agreement.

“Reserved Rights” means the following rights of the Authority under the Loan Agreement which the Authority has retained:

- (i) The payment of all of the Authority's fees and expenses pursuant to the Loan Agreement;
- (ii) The indemnification of the Authority pursuant to the Loan Agreement;
- (iii) The payment of all attorneys' fees and expenses of the Authority in the event of default by the Borrowers pursuant to the Loan Agreement.

“Responsible Officer” means any officer or assistant officer of the Trustee assigned by the Trustee to administer any of its corporate trust matters.

“Revenue Fund” means the fund established pursuant to of the Indenture.

“S & P” means Standard & Poor’s Ratings Service and its successors and assigns.

“Senior Bonds” means the Series 2005A Bonds and the Series 2005B Bonds and any Bond refunding all or a portion of the Series 2005A Bonds or the Series 2005B Bonds.

“Series 2005 Facilities” means the Health Facility Property described in the Indenture.

“Series 2005 Facilities Account” means the fund so designated which is to be established pursuant to of the Indenture.

“Series 2005A Note” means the Series 2005 Promissory Note issued by the Borrowers to secure the Series 2005A Bonds.

“Series 2005B Note” means the Series 2005 Promissory Note issued by the Borrowers to secure the Series 2005B Bonds.

“Series 2005C Note” means the Series 2005 Promissory Note issued by the Borrowers to secure the Series 2005C Bonds.

“Series 2005 Notes” means the Series 2005A Note, the Series 2005B Note and the Series 2005C Note.

“Short-Term”, when used in connection with Indebtedness, means (i) a Line of Credit; or (ii) any Indebtedness with an original maturity less than or equal to one year and not renewable at the option of the debtor for a term greater than one year beyond the date of original issuance.

“Significant Owner” means any Owner (including Beneficial Owners) owning \$1,000,000 or more in aggregate principal amount of Bonds Outstanding.

“Sinking Fund Redemption” means the mandatory sinking fund redemption of any Bonds on the dates and in the amounts required, in the case of the Series 2005 Bonds, in the Indenture, or, in the case of any Additional Bonds, as set forth in the Supplemental Indenture authorizing the issuance thereof.

“State” means the State of Indiana.

“Subordinate Bonds” means the Series 2005C Bonds and any Bond refunding all or a portion of the Series 2005C Bonds.

“Subordinated Management Fee” means 30% of the monthly management fee payable pursuant to the Management Agreement.

“Supplemental Indenture” means any indenture amending or supplementing the Indenture which may be entered into in accordance with the provisions of the Indenture.

“Tax Agreement” means any agreement, certificate or other instrument signed by any of the Authority, the Borrowers or American Eagle Lifecare and setting forth relevant matters in connection with the exclusion from gross income for Federal income tax purposes of the interest on any Tax Exempt Bonds, including matters with respect to the requirement, if any, that certain earnings on funds constituting proceeds of such Tax Exempt Bonds be rebated to the United States of America in accordance with Section 148(c) of the Code, and may include the Loan Agreement, the Indenture or any supplement thereto to the extent such matters are included therein.

“Tax Exempt Bonds” means the Series 2005A Bonds, the Series 2005C Bonds and any Additional Bonds issued with an Opinion of Bond Counsel that the interest thereon is excluded from gross income for Federal income tax purposes.



“Tax-Exempt Organization” means a Person organized under the laws of the United States of America or any state thereof which is an organization described in Section 501(c)(3) of the Code, which is exempt from federal income taxes under Section 501(a) of the Code and which is not a “private foundation” within the meaning of Section 509(a) of the Code, or corresponding provisions of federal income tax laws from time to time in effect.

“Trade Payables Covenant” means the covenants set forth in the Loan Agreement wherein the Borrowers agree that the number of days of trade account payables unpaid shall not exceed the Maximum Trade Payables Level as of each Quarterly Evaluation Date.

“Transfer Date” means the last Business Day of each month.

“Underwriter” means The GMS Group, L.L.C., as the underwriter of the Series 2005A Bonds and Series 2005B Bonds.

“United States Government Obligations” means direct obligations of, or obligations the timely payment of the principal of and interest on which is fully guaranteed by, the United States of America.

“Unrestricted Net Assets” means the part of net assets of a non-profit organization that is neither permanently restricted nor temporarily restricted by donor - imposed stipulations.

“Variable Rate Indebtedness” means Indebtedness that bears interest at a variable, adjustable or floating rate.

“Written Request” means with reference to the Authority, a request in writing signed by the Chairman, Vice-Chairman, Executive Director, Secretary or Assistant Secretary of the Authority or any other officer designated by the Authority and with reference to any Borrower means a request in writing signed by the President or a Vice President of any Borrower or any other officers or persons designated by such Borrower.

## SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

*The following, in addition to information provided elsewhere in this Official Statement, summarizes certain terms and provisions of the Indenture. Such summary does not purport to be comprehensive, and reference should be made to the Indenture for more complete information. Copies of the Indenture are available from the Trustee upon request.*

### **Special and Limited Obligations**

The liability of the Authority under the Indenture, the Bonds or any of the Financing Documents is limited to the Trust Estate. The Series 2005 Bonds are not general obligations of the Authority. The Series 2005 Bonds are limited obligations of the Authority. The Authority has no taxing power. Except as provided in the Indenture, the principal of, premium, if any, and interest, on the Series 2005 Bonds are payable solely out of the Trust Estate. The obligations under the Loan Agreement are payable solely out of the Trust Estate and other funds held or set aside in trust under the Indenture (other than amounts held in the Rebate Fund) and do not constitute a pledge of the faith or an indebtedness or charge against the general credit or taxing powers of the State of Indiana within the meaning of any constitutional or statutory provision. The State of Indiana is not in any event be liable for the payment of the principal of, premium, if any, or interest, if any, on the Series 2005 Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever that may be undertaken by the Authority or the Borrowers. Neither the Series 2005 Bonds nor any of the agreements or obligations of the Authority or the Borrowers may be construed to constitute an indebtedness of the State of Indiana or the Authority within the meaning of any constitutional or statutory provisions whatsoever, nor constitute or give rise to a pecuniary liability on, or be a charge against, the general credit or taxing powers of the State of Indiana or the Authority. Neither the Authority nor any other Person has any right to have the State of Indiana levy any taxes or appropriate any funds for the payment of the obligations of the Borrowers under the Loan Agreement.

No recourse under or upon any obligation, covenant or agreement contained in the Indenture or in any Bond secured thereby, or under any judgment obtained against the Authority or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Indenture, may be had against any member, officer, agent or employee, as such, past, present or future, of the Authority for the payment for or to the Authority or any receiver thereof, or for or to the Owners of any Bonds issued hereunder or otherwise, of any sum that may be due and unpaid by the Authority upon any such Bond. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, officer, agent or employee of the Authority as such, to respond by reason of any act or omission on his part or otherwise, for the payment for or to the Owner of any Bond issued under the Indenture or otherwise, or any sum that may remain due and unpaid upon the Bonds and secured under the Indenture or any of them, has been expressly waived and released as a condition of and consideration for the execution of the Indenture and the issuance of such Bond.

### **Additional Bonds**

The Authority may, upon request of a Borrower, issue from time to time, and the Trustee is to authenticate, Additional Bonds for the purpose of providing all or part of the funds necessary to refund all or a portion of the Bonds including accrued and unpaid interest and redemption premium, if any, and all costs and expenses incidental to redemption. Each series of Additional Bonds is to mature no later than the latest date permitted by applicable law (if any).

Prior to the issuance of Additional Bonds, the Authority is to deliver, or cause to be delivered, to the Trustee the following:

- (i) A Supplemental Indenture executed by the Authority and approved by such Borrower providing for the issuance of the Additional Bonds, containing such terms and provisions as may be necessary or proper to secure the Additional Bonds, and as shall not, unless all Outstanding Bonds are to be paid or redeemed, be inconsistent with this Indenture or adversely affect the security for the Series 2005 Bonds (other than the effect inherent in the issuance of Additional Bonds);

(ii) Executed counterparts of amendments or supplements to the Loan Agreement, the Indenture, Related Notes and the Mortgages evidencing and securing such Borrower's obligation to make payments to the Authority in amounts sufficient to pay the principal of and interest on all Outstanding Bonds (including the Additional Bonds to be issued);

(iii) Certified copies of the resolution of the Authority authorizing the execution of the Supplemental Indenture and the issuance of the Additional Bonds, and in the case of Additional Bonds for refunding purposes, the payment or redemption of the Bonds to be refunded;

(iv) An Opinion or Opinions of Counsel to the effect that (1) the Additional Bonds have been duly issued for a permitted purpose under the Indenture, (2) all consents or approvals required to be obtained from any Regulatory Body for the issuance of the Additional Bonds have been obtained, (3) the issuance of the Additional Bonds and execution and delivery of related documents will not constitute a breach or default on the part of such Borrower under its Articles of Incorporation and By-laws, or on the part of the Authority or such Borrower under any applicable laws or regulations, court orders or rulings of Regulatory Bodies to which the Authority or such Borrower is subject or any agreements to which the Authority or such Borrower is a party or to which its properties are subject, (4) there is no litigation or proceeding pending, or to the knowledge of such Counsel threatened, against or affecting such Borrower in any court or before or by any governmental authority, board or tribunal, and (5) all conditions precedent to the issuance of the Additional Bonds pursuant to the Indenture have been satisfied;

(v) The certificates and other documents required for such Borrower to issue Related Notes in connection therewith;

(vi) An Opinion of Bond Counsel to the effect that the issuance of the Additional Bonds will not adversely affect the exclusion from gross income of the Owners of any Outstanding Tax Exempt Bonds (or any Additional Bonds the interest on which was so excluded, in the Opinion of Bond Counsel, at the time of issuance) of the interest on such Outstanding Bonds for federal tax purposes, and in the event the Additional Bonds are issued for refunding purposes, an opinion that the Bonds which are being refunded have been defeased;

(vii) If applicable, evidence satisfactory to the Trustee that notice of redemption of any Bonds to be redeemed has been properly given or the Trustee has received irrevocable instructions to give such notice at the appropriate time; and

(viii) The prior written consent of the Majority of the Owners of the Senior Bonds.

Upon the issuance and delivery of any series of Additional Bonds, the Authority is to forthwith transfer the proceeds thereof to the Trustee, and the Trustee is to apply such proceeds in accordance with the terms of the Supplemental Indenture authorizing the issuance of such series.

### **Application of Trust Moneys**

**Establishment of Funds and Accounts within Funds.** Pursuant to the Indenture, the Trustee is to establish the following funds and accounts within funds, each of which is to be held by the Trustee, for the term of the Indenture, in accounts segregated from all other money of the Trustee:

(i) a Bond Fund, which will consist of the amounts required to be deposited therein in accordance with the provisions of the Indenture, and within such fund, for each series of Bonds, there will be established:

(a) an Interest Account with a 2005A Interest Subaccount, an 2005B Interest Subaccount and an 2005C Interest Subaccount;

(b) a Principal Account with a 2005A Principal Subaccount, an 2005B Principal Subaccount and an 2005C Principal Subaccount; and

(c) a Redemption Account with a 2005A Redemption Subaccount, a 2005B Redemption Subaccount and a 2005C Redemption Subaccount.

(ii) Reserved.

(iii) a Rebate Fund, which will consist of the amounts transferred thereto in accordance with the Indenture, and such other amounts required to be deposited or retained therein in accordance with the provisions of the Indenture;

(iv) a Project Fund and within such fund a Series 2005 Facilities Account; and

(v) an Expense Fund.

In connection with the issuance of Additional Bonds, the Trustee may establish such additional funds and accounts as are required under the terms of Supplemental Indentures. Further, the Borrowers may direct the Trustee to establish subaccounts of existing funds and accounts from time to time as needed in the discretion of the Borrowers.

**Deposit of 2005 Bond Proceeds.** All of the net proceeds of the sale of the Series 2005 Bonds (including accrued interest thereon) will be deposited as follows:

(i) \$10,859,850 from the proceeds of Series 2005A Bonds and \$2,082,809 from the proceeds of Series 2005B Bonds, will be deposited in the Series 2005 Facilities Account of the Project Fund;

(ii) Reserved;

(iii) \$ 0 from the proceeds of Series 2005A Bonds, and \$599,641 from the proceeds of Series 2005B Bonds will be deposited in the Expense Fund;

(iv) \$37,750 from the proceeds of the Series 2005A Bonds and \$12,250 from the proceeds of the Series 2005B Bonds will be deposited in the Capital Additions Fund for payment of the costs of the 2005 Repairs and Replacements; and

(v) The Series 2005C Bonds will be delivered to the sellers of the Facilities in payment of a portion of the purchase price of the Facilities.

**Project Fund.** The Trustee will establish an account in the Project Fund for the Costs of the acquisition of each of the Facilities for which the Series 2005 Bonds are issued hereunder. Each account will consist of the amounts deposited therein pursuant to the Indenture, and will contain any other amounts the Authority may cause to be deposited therein, including any contribution by the Borrowers. The amounts in each account, until applied as provided in the Indenture, will be held for the security of the Series 2005 Bonds. Payment from any account of the Project Fund will be made only in respect of the Costs of the Facility for which it is established, and only upon receipt of the following: (i) in all cases, a Closing Statement or requisition, executed and delivered as hereinafter provided, authorizing such payment; and (ii) in the case of payments authorized hereunder for the purpose of discharging any indebtedness of the Authority or the Borrowers, the proceeds of which were used for payments properly chargeable against the Project Fund, any evidence satisfactory to the Trustee of the discharge of the indebtedness and the release of all security therefor.

Payments from the Project Fund are to be made only upon receipt by the Trustee of a Closing Statement or a requisition in the form attached to the Indenture, signed by the Authorized Borrower Representative, which is to identify the Facility to which it relates and is to state (i) the name and address of the Person to whom the payment is to be made; (ii) the amount to be paid; (iii) the obligation on account of which the payment is to be made, showing

the total obligation, any amount previously paid, and the unpaid balance; (iv) that the obligation was properly incurred and is a proper charge against the Project Fund; (v) that the amount requisitioned is due and unpaid; (vi) that with respect to items covered in the requisition, there are no vendors, mechanics, or other liens, which should be satisfied or discharged before the payments as requisitioned therein are made, or which will not be discharged before the payments requisitioned therein are made, or which will not be discharged by such payment; (vii) that the amount remaining in the Project Fund after the payment of the requisition will be sufficient to pay all remaining Costs of the Facility; and (viii) if applicable, that the work performed or materials supplied are satisfactory to the Borrowers. The Borrowers are to make deposits into the applicable account of the Project Fund in order to be able to make the certification described in clause (vii) above.

**Procedure Upon the Acquisition of All of the Facilities.** Upon completion of the acquisition of all of the Facilities, the Authorized Borrower Representative are to furnish the Trustee with a Certificate certifying that all of the Facilities have been acquired by a Borrower (or if the acquisition of any particular Facility has been abandoned, that the acquisition of such Facility has been abandoned), and that all Costs associated with the acquisition of all of the Facilities have been paid or stating the amounts to be reserved for the payment of any unpaid Costs and certifying that such amounts are more than sufficient. To the extent that any Bond proceeds remain unexpended in any account in any Project Fund after receipt of such certificate, the Trustee is to, with respect to excess Bond proceeds, transfer such excess funds to the Principal or Interest Accounts of the Bond Fund for the Series 2005 Bonds to be applied to the payment of the Debt Service Requirements on such Series 2005 Bonds as the Authorized Borrower Representative directs the Trustee.

**Treatment of Project Fund Upon Acceleration of Bonds or Event of Default.** Upon the acceleration of the principal of all Bonds Outstanding, the Trustee is to immediately transfer all amounts in the Project Fund funded from insurance or condemnation award proceeds to the Bond Fund for payment of principal and interest on (a) first, all Senior Bonds and Additional Bonds pro rata among the series of such Bonds based upon the Outstanding principal amounts thereof, and (b) second, after the payment of all principal and interest on all Senior Bonds and Additional Bonds, all Series 2005C Bonds. If a Default has occurred and is continuing, disbursements from the Project Fund are to only be made if not unacceptable to a Majority of the Owners of the Senior Bonds.

**Expense Fund.** The Trustee is to establish the Expense Fund. A deposit to the credit of the Expense Fund is to be made in accordance with the provisions of the Indenture. Monies in the Expense Fund is to be disbursed upon the receipt of a requisition in the form attached to the Indenture, signed by the Authorized Borrower Representative, by the Trustee to pay for recording expenses, fees of the Trustee, escrow and title insurance costs, legal fees and other fees and expenses incurred by or on behalf of the Authority or the Borrowers in connection with or as an incident to the issuance and sale of the Series 2005 Bonds. Such requisition is to specify the amount of the expenditure, the purpose thereof, the party receiving such amounts and invoices or documentation evidencing such fees or expenses. At the earlier of December 31, 2005 or such time as the Borrowers provide the Trustee with a written statement stating that all such fees and expenses have been paid, the Trustee is to transfer any monies remaining in the Expense Fund to the Series 2005 Facilities Account of the Project Fund and close the Expense Fund.

#### **Bond Fund.**

(a) The Trustee is to use the money in the Interest Account of the Bond Fund to pay the Owners of the Series 2005 Bonds, on each Interest Payment Date, its ratable share of the amounts transferred to the Bond Fund pursuant to the Indenture to pay accrued interest on the Series 2005 Bonds.

(b) The Trustee is to use the money on deposit in the Principal Account of the Bond Fund to pay the Owners of the Series 2005 Bonds on each Principal Payment Date, as applicable, its ratable share of the amounts transferred to the Bond Fund pursuant to the Indenture to pay the principal of the Series 2005 Bonds at maturity or at such earlier time as such series may have become due and payable.

(c) The Trustee is to apply insurance proceeds (other than business interruption insurance), condemnation awards and title insurance proceeds from time to time deposited in any Redemption Account of the Bond Fund to effect the Extraordinary Redemption of the Series 2005 Bonds.

(d) The Trustee is to apply any prepayments made with respect to the Optional Redemption of Series 2005 Bonds from time to time deposited in any Redemption Account of the Bond Fund to effect the Optional Redemption of the Series 2005 Bonds.

If on any Interest Payment Date or Principal Payment Date or any date on which transfers are required to be made to the Bond Fund under the Indenture, funds in the Bond Fund are insufficient to make the required payment on Senior Bonds or Gross Revenues are insufficient to make the required transfers to the Bond Fund with respect to the Senior Bonds, funds are to be withdrawn from the following sources in the order stated until the debt service payments or transfers are made:

- (1) the Operating Reserve Fund;
- (2) the Revenue Fund;
- (3) the Replacement Reserve Fund; and
- (4) the Line of Credit.

Once each year, within thirty (30) days after the delivery to the Trustee of the compiled annual financial statements of the Borrowers for the immediately preceding Fiscal Year, the Trustee will use the money on deposit in the 2005C Principal Subaccount of the Principal Account of the Bond Fund for the Excess Funds Redemption of the Series C Bonds, as provided in the Indenture; provided, however, that the Trustee is to only use the money on deposit in the 2005C Principal Subaccount of the Principal Account of the Bond Fund for the Excess Funds Redemption of the Series C Bonds if the Borrowers are in compliance with all of the covenants of the Borrowers which are contained in all of the Financing Documents, as certified in a certificate of the Authorized Borrower Representative delivered to the Trustee.

**Rebate Fund.** Moneys deposited in the Rebate Fund do not constitute any part of the Trust Estate and are not be subject to the lien of the Indenture or otherwise be available for the payment of any Bonds. Separate accounts are to be established within the Rebate Fund as provided in any Tax Agreement. The Trustee is to transfer from the Revenue Fund to each applicable account of the Rebate Fund, such amounts as are necessary to cause the aggregate amounts transferred to such accounts to equal the respective amounts required by each applicable Tax Agreement, at such times and in such amounts as is required under such Tax Agreement, and, in each case, only at the written direction of Authorized Borrower Representative accompanied by a report of a Certified Public Accountant setting forth in reasonable detail the calculations resulting in a determination of the amount which the Trustee is directed to deposit in the Rebate Fund. Any such report may rely to the extent required by such Accountant upon an opinion or opinions of Bond Counsel as to any matters set forth therein. The Trustee has no responsibility, and the Authority and the Borrowers will indemnify and hold the Trustee harmless against any liability arising from or in connection with, the calculation of any amount required to be rebated to the United States of America in accordance with any Tax Agreement or any failure of the Authority or the Borrowers to calculate such amount or to direct the Trustee to pay such amount to the United States of America. Any moneys in the Rebate Fund are to be invested by the Trustee only in United States Government Obligations at the written direction of the Borrowers. All amounts in the Rebate Fund, including income earned from investment of moneys held in the Rebate Fund, are to be held by the Trustee solely for the purposes specified in the Indenture, free and clear of the lien of the Indenture and the Trustee, at the written direction of an Authorized Officer of the Authority or the Authorized Borrower Representative, is to pay said amounts over to the United States of America as required by any Tax Agreement. The provisions of the Indenture pertaining to the Rebate Fund may be deleted from the Indenture or otherwise amended, upon receipt by the Trustee and the Authority of an Opinion of Bond Counsel that such deletion or amendment will not adversely affect the exemption (if any) of interest on any Tax Exempt Bonds from Federal income tax. Any moneys then on deposit in the Rebate Fund are to be applied by the Trustee as required or permitted by any such opinion.

**Reports and Notices by Trustee.** The Trustee is to, at the expense of the Borrowers and within 45 days after the end of each month, furnish to the Borrowers and each Owner who requests in writing a transaction statement with respect to each of the funds and accounts within funds established under the Indenture that are held by the Trustee, showing at least the balance in each such fund or account as of the first day of the preceding month, the deposits to (including interest on investments) and the disbursements from each such fund or account during

such preceding month, and the balance in each such fund or account on the last day of the preceding month. The Trustee is also to furnish to each Owner who requests in writing, at the expense of the Borrowers and within 45 days after the end of each Fiscal Year, an annual transaction statement for such Fiscal Year with respect to each of the funds and accounts within funds established under the Indenture that are held by the Trustee, showing at least the balance in each fund or account as of the first day of such Fiscal Year, the deposits to (including interest and investments) and the disbursements from each such fund or account during such Fiscal Year, and the balance in each such fund or account on the last day of such Fiscal Year. In addition, the Trustee is to give to all Owners at such time as the requirements for the discharge of the Indenture have been satisfied in full.

### **Application of Gross Revenues**

**Establishment of Certain Funds and Accounts within such Funds.** There are to be established with the Trustee the following funds and accounts within funds, each of which is to be held by the Trustee, for the term of the Indenture, in accounts segregated from all other money of the Trustee: (i) a Revenue Fund (with a Taxes and Insurance Account); (ii) an Operating Reserve Fund, which is to consist of the amounts transferred, deposited or retained therein in accordance with the Indenture, and (iii) a Replacement Reserve Fund. In connection with the issuance of additional Indebtedness, the Trustee may establish such additional funds and accounts as are required. Further, the Authorized Borrower Representative may direct the Trustee to establish subaccounts of existing funds and accounts from time to time as needed in the discretion of the Authorized Borrower Representative.

**Flow of Funds.** The Borrowers have agreed to transfer, or cause the Manager to transfer, all Gross Revenues of the Borrowers to the Trustee on a weekly basis (except for the aggregate sum of \$30,000, which will be held by the Manager in one or more of the operating accounts established by the Manager for the Facilities), for deposit in the Revenue Fund. Subject to the provisions of the Indenture, the moneys in the Revenue Fund are to be transferred by the Trustee, without further direction from the Authority or any of the Borrowers, in the following manner, at the times and in the order of priority indicated:

(1) first, on any date on which any of the Borrowers is required to pay any Rebate Amount to the United States Treasury, a transfer to the Rebate Fund equal to the amount necessary to be paid to the United States Treasury;

(2) second, monthly or as needed, for the account of each of the Borrowers, (a) to the Taxes and Insurance Account, an amount equal to one-twelfth of the amounts set forth in the Operating Budget for the payment of taxes and insurance for each Facility; and then (b) upon request, transfers to one or more of the operating accounts for the Facilities in the amounts which are estimated by the Authorized Borrower Representative or the Manager on behalf of the Borrowers to be required to pay all Operating Expenses (which include home office fees and Management Fees and any interest due on accrued Management Fees, including accrued Subordinate Management Fees; but excluding the Subordinated Management Fee and excluding depreciation, amortization and bad debt expense and payments otherwise provided for under the Indenture) for such month; all as set forth in a request included in a Certificate of the Borrowers or the Manager (which Certificate is to include a comparison of such Operating Expenses against the then current Operating Budget provided to the Trustee);

(3) third, by each Transfer Date, to the 2005A Interest Subaccount and the 2005B Interest Subaccount of the Interest Account of the Bond Fund, the amounts necessary to accumulate in equal monthly installments by each Interest Payment Date in each such Interest Subaccount the interest on the related series of Senior Bonds due on such Interest Payment Date, taking into account (i) the amount of any investment earnings credited to such Interest Account by the Trustee in the previous month, and (ii) any credit granted pursuant to this Indenture; provided, however, that to the extent available, each transfer made on the Transfer Date immediately prior to the month in which occurs each Interest Payment Date shall be in an amount sufficient to provide the balance of the interest on the Series 2005 Bonds due on such Interest Payment Date; and provided further that, in the event that there are insufficient Gross Revenues at any time to make the monthly transfers required pursuant to this clause, then (x) such transfers shall be made to the 2005A Interest Subaccount 2005B and the Interest Subaccount of the Interest Account equally and ratably (based on the amounts due to be deposited in such Interest Subaccounts such month and to make up any deficiency in transfers into such Interest Subaccounts in prior months) and (y) an amount equal to the amount of such deficiency shall be transferred to the Bond Fund from the sources and in the order of priority set forth in the Indenture,

(4) fourth, by each Transfer Date, commencing in January 2006, to the Principal Account of the Bond Fund, the amount necessary to accumulate in equal monthly installments by each Principal Payment Date the principal due on all Senior Bonds (upon maturity or sinking fund redemption) on such Principal Payment Date, taking into account with respect to each such monthly transfer all other moneys actually available in such Principal Account; provided, however, each transfer made on the Transfer Date prior to the month in which occurs each Principal Payment Date is to be in an amount sufficient to provide the balance of the principal due on the Senior Bonds on such Principal Payment Date, and provided further that, in the event that there are insufficient funds at any time to make the transfer required pursuant this clause, then (x) such transfer is to be made to the Principal Account in an amount such that principal will be paid equally and ratably (based on the amounts due with respect to each such series) on such Principal Payment Date on all Senior Bonds then Outstanding and (y) an amount equal to the amount of such deficiency is to be transferred to the Bond Fund from the sources and in the order of priority set forth in the Indenture;

(5) fifth, by each Transfer Date, for the account of each of the Borrowers, to the holder of any Long-Term Indebtedness permitted under the Loan Agreement (other than the Series 2005 Notes and the Line of Credit), an amount equal to the interest and principal due on such Long-Term Indebtedness;

(6) sixth, by each Transfer Date, for the account of the Manager an amount equal to the Subordinate Management Fee then due and payable;

(7) Reserved;

(8) eighth, by each Transfer Date, for the account of each of the Borrowers, to the Line of Credit Noteholder, an amount equal to the interest and principal due and payable on the Line of Credit Note;

(9) ninth, by each Transfer Date, commencing in December 2005, for the account of each of the Borrowers, to the Replacement Reserve Fund, an amount equal to the Monthly Replacement Reserve Fund Deposit to the extent the amount on deposit in the Replacement Reserve Fund is less than the Replacement Reserve Fund Requirement;

(10) tenth, by each Transfer Date, to the Series 2005C Bond Interest Account of the Bond Fund, the amount necessary to accumulate in equal monthly installments by each Interest Payment Date the interest on all Subordinate Bonds due on such Interest Payment Date;

(11) eleventh, by each Transfer Date, (i) for the account of each of the Borrowers, to the Operating Reserve Fund, an amount equal to 40% of the amount remaining in the Revenue Fund after paying (1) through (10) above, and (ii) for the account of each of the Borrowers, towards principal amortization of the Subordinate Bonds, to the 2005C Principal Subaccount of the Principal Account of the Bond Fund for application as provided in the Indenture to the Excess Funds Redemption of the Series 2005C Bonds, an amount equal to 60% of the amount remaining in the Revenue Fund after paying (1) through (10) above; and

(12) twelfth, by each Transfer Date, any excess funds remaining in the Revenue Fund after paying (1) through (11) above is to be deposited in the Operating Reserve Fund.

The deposits pursuant to clauses (1) through (11) are to be cumulative such that if a required deposit in any month is not made, then no deposit may be made pursuant to any other clause with a lower level of priority until such deficiency in deposit amount is replenished.

Notwithstanding the foregoing, all transfers pursuant to clauses (6), (8), (10) and (11) above are to be suspended, and are not be made, if: (i) as of the most recent Quarterly Evaluation Date, the Maximum Trade Payables Level has been exceeded (ii) an Event of Default has occurred and be continuing; (iii) the Borrowers, collectively, have failed to comply with the Debt Service Coverage Ratio Requirements with respect to the most recent Quarterly Evaluation Date; or (iv) the Borrowers, collectively, have failed to comply with the Liquidity Covenant with respect to the most recent Quarterly Evaluation Date.



Upon the acceleration of the principal of any Series 2005 Bonds outstanding, the Trustee is to immediately transfer all amounts in the Revenue Fund over to the Bond Fund for application pursuant to the Indenture unless a Majority of the Owners of the Senior Bonds consents to not making such transfer. In addition, notwithstanding any other provision herein to the contrary, while any Event of Default has occurred and be continuing, the Trustee, at the direction of a Majority of the Owners of the Senior Bonds, is to apply moneys in the Revenue Fund to the payments described in clauses (3) and (4) above prior to the payment of some or all of the payments to be made under clause (2).

(d) With the approval of a Majority of the Owners of the Senior Bonds, the payment of Short Term Indebtedness or of the Subordinated Management Fee payable to a replacement Manager may be changed at the direction of the Borrowers to accord such payments a higher level of priority.

(e) In the event that the Gross Revenues transferred as set forth above are not sufficient to pay Operating Expenses when required, the Borrowers are to, subject to the conditions for payment of certain Operating Expenses set forth in the Indenture, request funds sufficient to pay the Operating Expenses in the following order of priority until the Operating Expenses are provided for in full: (i) first, from the Operating Reserve Fund; (ii) second, from the Replacement Reserve Fund; and (iii) third, from a draw on the Line of Credit.

**Operating Reserve Fund.** Upon the receipt of a certificate from the Authorized Borrower Representative stating that (i) some portion of the moneys on deposit in the Operating Reserve Fund is needed for Operating Expenses, and (ii) there are no moneys available in the Revenue Fund for such purpose, the Trustee is to pay over to, or upon the order of, the Borrowers the requested amount from the Operating Reserve Fund. In addition, upon the receipt of a certificate from Authorized Borrower Representative stating that (i) some portion of the moneys on deposit in the Operating Reserve Fund is needed to finance a Capital Addition for the Facilities (other than an expansion unless the Trustee has also received the written consent thereto from a Majority of the Owners of the Senior Bonds), and (ii) there are no moneys available in the Replacement Reserve Fund for such purpose, the Trustee is to pay over to the appropriate Borrower the requested amount from the Operating Reserve Fund, which the Borrower is to use to finance such Capital Addition as soon as practicable; provided, however, if the requested amount to finance a Capital Addition exceeds \$250,000, such amount shall be transferred to the Capital Additions Fund and used to finance such Capital Addition through the requisition process provided in the Indenture with respect to the Capital Additions Fund. However, if an Event of Default has occurred and is continuing, a Majority of the Owners of the Senior Bonds may direct the Trustee in writing not to make such transfers or payments. Notwithstanding anything herein to the contrary, moneys required to be held in the Operating Reserve Fund may only be used to make certain deposits, as specified in the Indenture or to finance a Capital Addition as provided in the Indenture. In the event that amounts are required to be added to the Rebate Fund in order for the Trustee to pay the Rebate Amount to the United States pursuant to the Code, the Trustee, at the request of the Authorized Borrower Representative, is to transfer the necessary amounts from the Operating Reserve Fund to the Rebate Fund.

On any Interest Payment Date or Principal Payment Date and on each date Gross Revenues are required to be transferred to the Bond Fund, other than in connection with the payment of debt service on the Series 2005C Bonds or any optional redemption of Series 2005 Bonds, the Trustee is to transfer moneys in the Operating Reserve Fund to cure any deficiency in the Bond Fund with respect to the Senior Bonds in accordance with the Indenture. Any deficiencies in any Interest Account of the Bond Fund are to be cured prior to any deficiencies in any Principal Account of the Bond Fund.

Upon the acceleration of the principal of any Series 2005 Bonds outstanding, the Trustee is to transfer all amounts in the Operating Reserve Fund to the Bond Fund, so long as such transfer is not unacceptable to a Majority of the Owners of the Senior Bonds.

On any Interest Payment Date, provided no Event of Default has occurred and is continuing and no deficiency exists in any fund established under the Indenture, the Trustee is to pay to or upon direction of the Borrowers any amounts on deposit in the Operating Reserve Fund in excess of 120 Days Cash-on-Hand upon delivery to the Trustee of a Certificate of the Authorized Borrower Representative requesting such payment.

### **Replacement Reserve Fund.**

The Replacement Reserve Fund is to be funded on a monthly basis from the Gross Revenues in the amount equal to the Monthly Replacement Reserve Fund Deposit beginning in December 2005 until the amount therein equals the Replacement Reserve Fund Requirement. Once the Replacement Reserve Fund Requirement is achieved, the Replacement Reserve Fund is to be replenished as necessary by monthly deposits in the amount required above. The Monthly Replacement Reserve Deposit and the Replacement Reserve Fund Requirement are subject to increase as provided in the Indenture and the Loan Agreement. The failure to make a required deposit into the Replacement Reserve Fund because of insufficient revenues is not be an Event of Default under the Indenture.

Upon the receipt of a certificate of the Authorized Borrower Representative stating that (i) some portion of the moneys on deposit in the Replacement Reserve Fund is needed to (A) finance a Capital Addition with respect to a Facility (other than an expansion unless the Trustee has also received the written consent thereto from a Majority of the Owners of the Senior Bonds) or (B) subject to the Indenture, to pay Operating Expenses if there are no moneys therefor in the Revenue Fund, the Trustee is to pay over to the appropriate Borrower the requested amount from the Replacement Reserve Fund, which such Borrower is to use to finance such Capital Additions or pay such Operating Expenses as soon as practicable, provided, however, if the requested amount exceeds \$250,000, such amount is to be transferred to the Capital Additions Fund and used to finance such Capital Addition through the requisition process provided in the Indenture with respect to the Capital Additions Fund. If an Event of Default has occurred and is continuing, a Majority of the Owners of the Senior Bonds may direct the Trustee in writing not to make such transfer or payment.

In the event that amounts are required to be added to the Rebate Fund in order for the Trustee to pay the Rebate Amount to the United States pursuant to the Code, the Trustee, at the request of Authorized Borrower Representative, is to transfer the necessary amounts from the Replacement Reserve Fund to the Rebate Fund as provided in the Indenture.

On any Interest Payment Date or Principal Payment Date and on each date Gross Revenues are required to be transferred to the Bond Fund under the Indenture, other than in connection with the payment of debt service on the Series 2005C Bonds or any optional redemption of the Series 2005 Bonds, the Trustee is to transfer moneys in the Replacement Reserve Fund, to cure any deficiency in the Bond Fund with respect to the Senior Bonds in accordance with the Indenture. Any deficiencies in any Interest Account of the Bond Fund are to be cured prior to any deficiencies in any Principal Account of the Bond Fund. Moreover, upon the acceleration of the principal of any Series 2005 Bonds outstanding, the Trustee is to transfer all amounts in the Replacement Reserve Fund over to the Bond Fund, so long as such transfer is not unacceptable to a Majority of the Owners of the Senior Bonds.

**Capital Additions Fund.** The Trustee is to establish an account in the Capital Additions Fund for the payment of the Costs of each Capital Addition involving construction and equipment replacement for which any Bonds are issued under the Indenture, including the 2005 Repairs and Replacements for which insurance or condemnation proceeds are deposited with the Trustee pursuant to the Loan Agreement, or for which monies are transferred from the Replacement Reserve Fund pursuant to the Loan Agreement and the Indenture, or for which moneys are transferred from the Operating Reserve Fund pursuant to the Indenture. Each account will consist of the amounts deposited therein pursuant to the Indenture, and will contain any other amounts that any Borrower may cause to be deposited therein. The amounts in each account, until applied as hereinafter provided, are to be held as security for all the Series 2005 Bonds outstanding hereunder.

Payments from the Capital Additions Fund are to be made only upon receipt by the Trustee of a requisition in the form attached to the Indenture, signed by Authorized Borrower Representative, which is to identify the Capital Addition to which it relates and is to state (i) the name and address of the Person to whom the payment is to be made; (ii) the amount to be paid (which, other than with respect to the 2005 Repairs and Replacements is to provide for a holdback (the "Holdback") until completion equal to ten percent (10%) of the amount of each requisition relating to construction); (iii) the obligation on account of which the payment is to be made, showing the total obligation, any amount previously paid, and the unpaid balance; (iv) that the obligation was properly incurred and is a proper charge against the Capital Additions Fund; (v) that the amount requisitioned is due and unpaid; (vi) that with respect to items covered in the requisition, there are no vendors, mechanics, or other liens, which should be satisfied or discharged before the payments as requisitioned therein are made, or which will not be discharged before

the payments requisitioned therein are made, or which will not be discharged by such payment; (vii) that the amount remaining in the Capital Additions Fund after the payment of the requisition will be sufficient to pay all remaining Costs of the Capital Addition; and (viii) that the work performed or materials supplied are satisfactory to the Borrowers. Such requisition is to be accompanied by acknowledgments of payment and waivers of lien from all persons supplying labor or materials for all lienable work done and materials delivered through the date of the previous requisition. The Trustee is not to pay out any Holdback from the Capital Additions Fund except as set forth in the Indenture. The Borrowers are to make deposits into the applicable account of the Capital Additions Fund in order to be able to make the certification described in clause (vii) above. In the case of Capital Additions to be funded from the proceeds of insurance or condemnation proceeds deposited into the Capital Additions Fund pursuant to the Loan Agreement, it is to be a further condition to any disbursements of funds from the Capital Additions Fund that the Borrowers have satisfied each of the requirements which are specified in the Loan Agreement. In addition, in connection with the disbursement of title insurance proceeds from the Capital Additions Fund with respect to the cure of a title defect, no such disbursement is to be made until after the title defect has been cured.

Any requisition relating in whole or in part to payments for any Material Capital Addition in excess of \$750,000 is to be accompanied by a certificate of the Architect certifying (i) his approval of the requisition; (ii) that the obligation was properly incurred; (iii) that the amount requisitioned is due and unpaid; (iv) that, insofar as the payment is to be made for work, material, supplies or equipment, the work has been performed and the materials, supplies or equipment have been installed in the Facilities or have been delivered at the site and are covered by the builders' risk insurance; (v) that all work, material, supplies and equipment for which payment is to be made are, in the signer's opinion, in accordance with the plans and specifications or duly approved change orders; and (vi) that the amount remaining in the Capital Additions Fund after the payment of the requisition will be sufficient to pay all remaining costs of the Material Capital Addition.

Upon completion of any Capital Addition, the Borrowers are to furnish the Trustee with their Certificate which may be given in reliance upon appropriate certifications of the Architect, showing such completion and the date thereof and certifying that all required insurance has been obtained, that all construction has been completed in accordance with the approved plans and specifications and approved changes if any, and that all Costs of the Capital Addition (other than the Holdback) have been paid or stating the amounts to be reserved for the payment of any unpaid Costs and certifying that such amounts are more than sufficient. If such Capital Addition was a Material Capital Addition in excess of \$750,000, any such certificate must be approved by an Architect as required under the Loan Agreement. The Trustee may then release the Holdback from the Capital Additions Fund to the appropriate parties upon delivery of (i) a requisition and certificates meeting the provisions of the Loan Agreement except for the provision therein requiring a Holdback from each requisition; (ii) acknowledgments of payment and waivers of lien for all lienable work done and materials delivered from all contractors, subcontractors and material suppliers who performed services or provided materials with respect to the Capital Addition; (iii) if applicable, a final title insurance policy or endorsement insuring the lien of the Mortgages with respect to any real property not otherwise covered thereby in which an interest was obtained in connection with the Capital Addition, subject only to Permitted Encumbrances; and (iv) if applicable, a certificate of occupancy. To the extent that any proceeds remain unexpended in any account in any Capital Additions Fund after receipt of the such certificate, the Trustee is to: (i) with respect to excess Bond proceeds, transfer such excess funds to the Principal or Interest Accounts of the Bond Fund for Senior Bonds to be applied to the payment of the Debt Service Requirements on the Senior Bonds as the Authorized Borrower Representative directs the Trustee in writing; and (ii) with respect to excess insurance proceeds or condemnation awards, transfer such excess funds to the Bond Fund and is to apply such excess funds to the Extraordinary Redemption of the Series 2005 Bonds as provided in the Indenture and the Loan Agreement.

**Investment or Deposit of Funds.** The Trustee, at the request and written direction of an Authorized Borrower Representative (provided that after the occurrence of any Event of Default, the Authorized Borrower Representative may not make such investment directions but such directions may be given by a Majority of the Owners of the Senior Bonds), is to invest and reinvest moneys held in any fund or account established under the Indenture in Permitted Investments; provided, however, that (i) in the absence of any direction, the Trustee is to invest such moneys in United States Treasury Bills maturing in 30 days or less or Permitted Investments of the type described in paragraph (e) of the definition thereof, and (ii) moneys held pursuant to the defeasance provisions of the Indenture are to be invested only in United States Government Obligations.

All Permitted Investments are to mature or be subject to redemption by the Trustee prior to the date or dates that the Borrowers anticipate that moneys therefrom will be required. Any Permitted Investment which, by its terms, permits the redemption or repayment, at par and without penalty, of amounts due thereunder (or any portion thereof sufficient to meet the requirements of the applicable requirement) upon the demand of the Trustee may have a term not greater than the remaining term of the applicable series of Bonds.

The interest and income received upon investments and any interest paid by the Trustee or other depository with respect to moneys in the Project Fund is to be retained in the Project Fund. The interest and income received upon the investment of amounts held in any subaccounts of the Interest Account or Principal Account Fund is to be retained therein and applied as a credit in each month against the applicable payments thereto next becoming due under the Loan Agreement. The interest and income received upon investments in the Rebate Fund and the Expense Fund is to be maintained therein. Neither the Trustee nor the Authority is to be accountable for any depreciation in the value of any Permitted Investment. The money held by the Trustee in the various funds and accounts established under the Indenture may be pooled for the purposes of investment only, and such money may be invested as one account; provided that the Trustee is to keep records of the amount of principal (on a pro rata basis) of each fund which is pooled for investment purposes and provided that no amounts in the Rebate Fund may be commingled or pooled. The interest and income received upon investments (other than accrued interest included in the purchase price for investments) with respect to moneys in the Operating Reserve Fund, the Replacement Reserve Fund and the Capital Additions Fund and any net profit resulting from the sale of investments in any such Fund is to be transferred to and deposited in the Revenue Fund. Any loss resulting from the sale of investments in such Fund is to be charged against such Fund.

**Valuation of Funds.** The Trustee is to compute the value of the assets of each fund or account established under the Indenture as of the last day of March, June, September and December of each year. In computing the assets of any fund or account, investments and the accrued interest paid on the purchase thereof are to be deemed a part of such fund or account. Investments in each such fund pursuant to the Indenture are to be valued at the current market value thereof provided that all investment agreements are to be valued at par.

#### **Discharge of Indenture.**

**Bonds Deemed Paid.** Subject to the terms of the Indenture, any Bond will be deemed paid for all purposes of the Indenture when (1) payment of the principal of and interest and premium on such Bond to the due date of such principal and interest (whether at maturity, upon redemption or otherwise) either (A) has been made in accordance with the terms of the Bonds or (B) has been provided for by depositing with the Trustee (i) money sufficient to make such payment, and/or (ii) noncallable United States Government Obligations maturing as to principal and interest in such amounts and at such times as will, without reinvestments, as demonstrated in a report of a Certified Public Accountant, insure the availability of sufficient money to make such payment, and (2) all compensation and expenses of the Trustee pertaining to such Bonds in respect of which such deposit is made have been paid or provided for to the Trustee's satisfaction, and all other obligations of the Borrowers under the Financing Documents have been fully performed. When a Bond is deemed paid, it will no longer be secured by or entitled to the benefits of the Indenture or be an obligation of the Authority, except for: (x) payment from money or United States Government Obligations deposited under (1)(B) above; (y) such Bond may be transferred, exchanged, registered, discharged from registration or replaced as provided in the Indenture; and (z) if such Bond is a Tax Exempt Bond, such Bond will be entitled to the benefit of the tax covenants contained in the Indenture.

No deposit under clause (1)(B) in the preceding paragraph will be deemed a payment of any Bonds until either: (1) the actual maturity of the Bonds; or (2)(A) if all or a portion of the Bonds being defeased consist of Tax Exempt Bonds, the Trustee receives an Opinion of Bond Counsel to the effect that the advance refunding of such Tax Exempt Bonds will not adversely affect the exclusion (if any) from gross income for Federal income tax purposes of the interest on any Tax Exempt Bonds, and (B) notice of redemption of such Bonds is given in accordance with the Indenture or, if such Bonds are not to be redeemed or paid within the next 60 days, until the Authority, at the request of the Borrowers, has given the Trustee, in form satisfactory to the Trustee, (i) irrevocable instructions to notify, as soon as practicable, the Owners of such Bonds in accordance with the Indenture, that the deposit required above has been made with the Trustee and that such Bonds are deemed to be paid under as set forth in the Indenture and stating the maturity or redemption date upon which money is to be available for the payment of the principal of such Bonds, and (ii) if the Bonds are to be redeemed rather than paid, irrevocable instructions to

give notice of the redemption date for such Bonds, and (iii) written evidence that the Bonds in question will, upon the deposit under clause (1)(B) in the preceding paragraph, be rated in the highest Rating Category by either Moody's or S&P.

When all Outstanding Bonds are deemed paid under the foregoing provisions of the Indenture, and all payments and obligations under the Loan Agreement and the Indenture are satisfied and provision is made to the satisfaction of the Trustee for its expenses, the Trustee is to upon request acknowledge the discharge of the lien of the Indenture, provided, however that (1) the obligations under the Indenture in respect of the transfer, exchange, registration, discharge from registration and replacement of Bonds and certain sections of the Indenture with respect to the Tax Exempt Bonds are to survive the discharge of the lien of the Indenture and (2) the Trustee is to have received an Opinion of Bond Counsel to the effect that (A) all conditions precedent to the discharge of the lien as provided in the Indenture have been satisfied; and (B) the deposit of funds and proposed application thereof will not cause any Tax Exempt Bonds to be treated as arbitrage bonds for the purposes of Section 148(a) of the Code.

**Application of Trust Money; Repayment to Borrowers.** The Trustee is to hold in trust money or United States Government Obligations deposited with it pursuant to the foregoing provisions and apply the deposited money and the money from the United States Government Obligations in accordance with the Indenture only to the payment of principal of and interest on the applicable Bonds. The Trustee is to pay to the Borrowers upon request any excess money held by the Trustee at any time pursuant to the foregoing provisions and any money (subject to the provisions of any Tax Agreement) held by the Trustee under any provision of the Indenture for the payment of principal or interest or for the purchase of Bonds that remains unclaimed for four years and thereafter the Owners must look to the Borrowers only for payment of such amounts; provided, however, that before being required to make any such payment to the Borrowers, the Trustee is to have furnished Owners the notices required under the Indenture and is to have sent to Owners of Bonds which were called for redemption but not presented for payment a final notice upon the passing of four years which notice has brought no response for thirty (30) days.

#### **Events of Default and Remedies.**

**Events of Default.** Each of the following is an "Event of Default" under the Indenture:

(a) Default in the payment of any interest or principal (or premium, if any) payable on any Bond when it becomes due; provided, however, that as long as any Senior Bonds or any Additional Bonds are Outstanding, the failure to pay any interest, principal or redemption price with respect to the Series 2005C Bonds or to make a transfer in connection therewith to the Bond Fund because of insufficient revenues is not be an Event of Default under the Indenture;

(b) Reserved;

(c) If any failure to perform or observe any other covenant or agreement in the Bonds or in the Indenture occurs and such failure continues for thirty (30) days after written notice thereof has been given to the Authority and the Authorized Borrower Representative by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of Owners holding at least 25% in aggregate principal amount of all Bonds Outstanding; provided, however, that if such performance requires work to be done, actions to be taken or conditions to be remedied, which by their nature cannot be reasonably done, taken or remedied as the case may be, within such thirty (30) day period, no Event of Default will be deemed to have occurred or exist if, and so long as, the Authority or the Borrowers commence such performance within such thirty (30) day period and diligently and continuously prosecute the same to completion within ninety (90) days after the initial notice and the Authority or the Borrowers deliver a report to the Trustee at least once every thirty days setting forth the status of its attempt to cure such default;

(d) If any Event of Default occurs under the Loan Agreement or any Mortgage;

(e) If the Authority has applied for or consented to the appointment of a receiver, trustee, or liquidator of all or a substantial part of its assets; admitted in writing the inability to pay its debts as they mature; made a general assignment for the benefit of creditors; been the subject of an order for relief under the Federal Bankruptcy

Code, or been adjudicated a bankrupt, or filed a petition or an answer seeking reorganization, liquidation or any arrangement with creditors or taken advantage of any insolvency law, or submitted an answer admitting the material allegations of a petition in bankruptcy, reorganization, liquidation or insolvency proceedings; or an order, judgment or decree has been entered, without the application, approval or consent of the Authority by any court of competent jurisdiction approving a petition seeking reorganization of the Authority or appointing a receiver, trustee or liquidator of a substantial part of its assets and such order, judgment or decree continues unstayed and in effect for any period of sixty (60) consecutive days; or filed a voluntary petition in bankruptcy or failed to remove an involuntary petition in bankruptcy filed against it within sixty (60) days of the filing of such involuntary petition; or

- (f) The occurrence of a Determination of Taxability.

**Acceleration and Annulment Thereof.** If any Event of Default occurs and continues, the Trustee may, and upon the written request of the Owners of 25% in aggregate principal amount of Senior Bonds Outstanding shall, by notice in writing to the Authority, the Borrowers and the Authorized Borrower Representative, declare the principal of all Bonds then Outstanding, together with the Acceleration Premium thereon, if any, to be immediately due and payable. Upon any such declaration the said principal, together with interest accrued thereon, and said Acceleration Premium (if any) shall become due and payable immediately at the place of payment provided therein. Upon any declaration of acceleration hereunder, the Trustee is to immediately give notice thereof to the Owners of the Bonds. If, after the Bonds have been accelerated and the principal and Acceleration Premium (if any) of the Bonds has been so declared to be due and payable, the acceleration of the maturity of the Bonds is annulled in accordance with the provisions of the Indenture, the acceleration of the maturity of the Bonds shall be automatically annulled, and the Trustee is to promptly give written notice of such annulment to the Authority, the Authorized Borrower Representative and the Borrowers, and notice to the Owners.

**Other Remedies.** If any Event of Default has occurred and is continuing, the Trustee, before or after declaring the principal of the Bonds, together with any Acceleration Premium, immediately due and payable, (a) may enforce each and every right granted to the Authority under the Loan Agreement and the Mortgages, and all other agreements and contracts and any supplements or amendments thereto, and (b) insofar as such right may be lawfully conferred upon the Trustee, may, by its agents or attorneys, with or without process of law, enter upon and take and maintain possession of all or any part of the Facilities, together with all records, documents, books, papers and accounts of the Authority relating thereto, and may, as the attorney in fact or agent of the Authority, being duly authorized, or in its own name as Trustee, hold, manage, and operate the Facilities and collect the amounts payable by reason of such operation. After paying the expenses of operation and maintenance, including such repairs, replacements, alterations, additions and improvements as it deems proper, the Trustee is to apply the balance of the revenues as provided in the Indenture.

**Legal Proceedings by Trustee.** If any Event of Default has occurred and is continuing, the Trustee in its discretion may, and upon the written request of a Majority of the Owners of the Senior Bonds is to, in its own name: (a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Owners of the Bonds, including the right to require the Authority to charge and collect moneys adequate to carry out the terms of the Indenture and to require the Authority to carry out any other agreements with, or for the benefit of, the Owners of the Bonds and to perform it or their duties under the Act; (b) bring suit upon the Bonds; (c) by action or suit in equity require the Authority to account as if it were the trustee of an express trust for the Owners of the Bonds; (d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds; and (e) exercise any or all other rights and remedies provided by any law, and by any suit, action or special proceeding at law, and by any suit, action or special proceeding at law or in equity for specific performance or in aid of any power or right granted herein. If any proceeding commenced by the Trustee on account of any Event of Default is discontinued or is determined adversely to the Trustee, the Authority, the Trustee and the Owners shall be restored to their former positions and rights hereunder as though no such proceedings had been commenced.

**Owners of the Senior Bonds May Direct Proceedings.** A Majority of the Owners of the Senior Bonds have the right, after furnishing indemnity for costs and liabilities arising therefrom reasonably satisfactory to the Trustee, to direct the method and place of conducting all remedial proceedings by the Trustee hereunder; provided that such direction shall not be in conflict with any rule of law or with the Indenture. Without limitation of the foregoing, any such remedial proceeding may include forbearance or non-action on the part of the Trustee and the

waiver of claims or the granting of a covenant not to sue. Notwithstanding the rights of the Owners of the Senior Bonds, as long as the Senior Bonds or Additional Bonds are Outstanding, the Owners of the Subordinate Bonds are to “stand still” after the occurrence of an Event of Default and are not to exercise any rights without the consent of the Majority of the Owners of the Senior Bonds.

**Limitations on Actions by Owners.** No Owner has the right to pursue any remedy under the Indenture, unless (i) the Majority of the Owners of the Senior Bonds have requested the Trustee, in writing, to exercise the powers described above or to pursue such remedy in its or their name or names, (ii) the Trustee has been offered indemnity reasonably satisfactory to it against costs, legal fees and liabilities arising therefrom and (iii) the Trustee has failed to comply with such request within a reasonable time. Notwithstanding the foregoing, the Owners of at least 75% in aggregate Outstanding principal amount of the Senior Bonds then Outstanding have the right to take any and all actions to enforce the provisions of the Indenture or the Loan Agreement in their own name or, upon providing indemnity to the Trustee reasonably satisfactory to the Trustee for costs, legal fees and liabilities arising therefrom, in the name of the Trustee. In the event that such Owners elect to take such action, they are to notify the Trustee in writing of their election and any costs incurred in connection with the taking of such action are to be treated as costs of the Trustee and will be subject to the same repayment, lien and security rights afforded costs of the Trustee.

**Application of Money in Event of Default.** Any moneys received by the Trustee under the default provisions of the Indenture, and all moneys on deposit in the funds held by the Trustee (excluding the Rebate Fund) to be applied pursuant to such default provisions, are to be applied in the following order: (i) to the payment of the costs of the Trustee, including counsel fees, any disbursements and expenses of the Trustee, and to the payment of the Trustee's compensation; (ii) to the payment of the reasonable expenses of any Significant Owner of Senior Bonds, including counsel fees, incurred in connection with the Event of Default; (iii) to the payment of the costs and expenses of the operation, maintenance, repair and improvement of the Facilities; (iv) to the payment of all installments of interest on the Bonds (other than the Series 2005C Bonds) then due and payable in the order in which such installments became due and payable, and, if the amount available is not sufficient to pay in full any particular installment, then to the payment, ratably, according to the amounts due on such installments, without discrimination or preference; (v) to the payment of the unpaid principal amount, including Acceleration Premium, of any of the Bonds (other than the Series 2005C Bonds) which have become due and payable, in the order of due dates (other than Bonds called for redemption or contracted to be purchased for the payment of which moneys are held pursuant to the provisions of the Indenture), and, if the amount available is not sufficient to pay in full the principal, including Acceleration Premium, of such Bonds due and payable on any particular due date, then to the payment of such principal, ratably, according to the amount of principal due on such date, without any discrimination or preference; (vi) to the payment of all installments of interest on the Series 2005C Bonds then due and payable in the order in which such installments became due and payable, and, if the amount available is not sufficient to pay in full any particular installment, then to the payment, ratably, according to the amounts due on such installments, without discrimination or preference; (vii) to the payment of the unpaid principal amount, including Acceleration Premium, of any of the Series 2005C Bonds which have become due and payable, in the order of due dates (other than Bonds called for redemption or contracted to be purchased for the payment of which moneys are held pursuant to the provisions of the Indenture), and, if the amount available is not sufficient to pay in full the principal, including Acceleration Premium, of such Bonds due and payable on any particular due date, then to the payment of such principal, ratably, according to the amount of principal due on such date, without any discrimination or preference. Notwithstanding the foregoing, a Majority of the Owners of the Senior Bonds may direct the Trustee to apply such moneys to make the payments described in clause (iv) and (v) prior to those in clause (iii).

If the principal of all Bonds have become due and payable, whether by their terms or by a declaration of acceleration, and subject to the provisions of the Indenture regarding payment to the Trustee, all such moneys are to be applied as follows: (i) first, to the payment of the principal (including Acceleration Premium) and interest then due and unpaid upon the Senior and Additional Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any such Bond over any other such Bond, ratably, according to the amounts due respectively for principal and interest, without any discrimination or preference; and (ii) second, to the payment of the principal (including Acceleration Premium) and interest then due and unpaid upon the Subordinate Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any such Bond

over any other such Bond, ratably, according to the amounts due respectively for principal and interest, without any discrimination or preference.

Whenever moneys are to be applied as set forth above, the Trustee may, in its discretion, establish and maintain a reserve for future fees and expenses, and may apply moneys to be distributed at such times, and from time to time, as the Trustee determines, having due regard for the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee applies such funds, it is to fix a date (which is to be an Interest Payment Date unless the Trustee deems another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates, and for which moneys are available, shall cease to accrue. The Trustee will also select a Record Date for such payment date. The Trustee is to give such notice as it may deem appropriate of the deposit with it of any moneys and of the fixing of any such Record Date and payment date, and is not be required to make payment to the holder of any Bond until such Bond is presented to the Trustee for appropriate endorsement or for cancellation if fully paid. The surplus, if any, is to be paid to the Borrowers or the person lawfully entitled to receive the same as a court of competent jurisdiction may direct. Notwithstanding anything to the contrary, amounts held in the Bond Fund or other fund established solely for the benefit and security of a particular series of Bonds are to be applied by the Trustee only to the payment of amounts due in respect of such Bonds.

**Right to Receiver; Bankruptcy Proceedings.** Upon the occurrence of an Event of Default, and upon application to a court of competent jurisdiction, the Trustee is entitled, without regard to the adequacy of the security for the obligations secured by the Indenture, or the solvency of the Borrowers or the Authority, to the appointment of a receiver to take possession of all or any portion of the Facilities and to collect the rent, profits, revenues, income and other moneys received therefrom. The Trustee has been authorized and directed to the Indenture, on behalf of the Owners of the Bonds, to file a proof or proofs of claim in any bankruptcy, receivership or other insolvency proceedings involving any of the Borrowers. With respect to any matter in any such proceeding which requires the vote of any claimant, the Trustee has also been authorized and directed to vote on behalf and in the name of the Owners of all Bonds Outstanding hereunder in the manner designated by a Majority of the Owners of the Senior Bonds.

**Rights of Trustee.** Subject to the provisions of the Indenture concerning the rights of the Owners to direct certain actions, the Trustee, as pledgee and assignee for security purposes of all the right, title and interest of the Authority in and to the collateral granted hereunder, is, upon compliance with applicable requirements of law and except as otherwise set forth in the Indenture, the sole real party in interest in respect of, and has standing, exclusive of the Owners, to enforce each and every right and remedy granted to the Trustee under the Indenture.

**Limitations on Remedies.** The remedies provided in the Indenture against the Authority are limited by the provisions of the Act, and the Authority shall not be liable for any payment on the Bonds other than from the revenues and assets herein pledged.

**Mortgaged Property.** The Trustee is not in any circumstances required to foreclose on the Mortgaged Property, take a deed in lieu of foreclosure, take title to or otherwise control or deal with the Mortgaged Property until (i) an environmental assessment or assessments of sufficient magnitude to detect and identify contamination on the Mortgaged Property has been performed by an engineer acceptable to the Trustee and, if the environmental assessment or assessments disclose contamination which requires remediation, the costs for such remediation have been fully assured, and until (ii) the Trustee has been fully indemnified by the Borrowers for all cost, expenses and liabilities which the Trustee may incur by reason of acts taken or omitted with respect to the Mortgaged Property. The Trustee has no obligation or responsibility to monitor activity to detect environmental problems before the Trustee has received notice or knowledge that an Event of Default has occurred.

#### **Amendments of and Supplements to Indenture**

**Amendments and Supplements with Consent of Majority of the Owners of the Senior Bonds.** The Authority and the Trustee may not amend or supplement the Indenture or the Bonds, except as provided in the next section, unless (i) such amendment or supplement is for any of the following purposes, and (ii) such amendment or supplement is approved in writing by a Majority of the Owners of the Senior Bonds:



(a) To correct or enlarge the description of the Trust Estate, or better to assure, convey and confirm unto the Trustee any property subject or required to be subjected to the lien of the Indenture, or to subject to the lien of the Indenture additional property, or to subject to the lien and pledge of the Indenture additional revenues, properties or collateral; or

(b) To add to the conditions, limitations and restrictions on the authorized amount, terms or purposes of issue, authentication and delivery of Series 2005 Bonds, as set forth in the Indenture, other conditions, limitations and restrictions thereafter to be observed; or

(c) To add to the covenants of the Authority, for the benefit of the Owners or to surrender any right or power conferred in the Indenture upon the Authority; or

(d) To cure any ambiguity, to correct or supplement any provision in the Indenture which may be inconsistent with any other provision in the Indenture, or to make any other provisions with respect to matters or questions arising under the Indenture which shall not be inconsistent with the provisions of the Indenture, provided there is delivered an Opinion of Counsel to the effect such action shall not adversely affect the interests of the Owners of the Series 2005 Bonds then Outstanding; or

(e) To modify or supplement the Indenture in such manner as may be necessary or appropriate to qualify the Indenture under the Trust Indenture Act of 1939, as amended from time to time; or

(f) To substitute Trustees pursuant to the Indenture., or

(g) To provide for the creation of any series of Additional Bonds, as provided and subject to the conditions and requirements set forth in the Indenture; or

(h) To modify or supplement the Indenture to preserve the exclusion from gross income for federal income tax purposes of the interest on the Tax-Exempt Bonds if the Authority and the Trustee receive an Opinion of Bond Counsel that such modification or supplement will not adversely affect the interests of the Owners of the Tax-Exempt Bonds Outstanding.

**Amendment With Consent of Affected Owners.** The Authority or the Trustee may enter into an amendment or supplement to the Indenture or the Bonds upon prior notice to all Owners and with the consent of a Majority of the Owners of the Senior Bonds. However, no amendment or supplement may (i) extend the maturity of the principal of, or interest on, any Bond, (ii) reduce the rate of interest, or waive payment of interest or principal, on, any Bond, (iii) affect a privilege or priority of any Bond or Bonds over any other Bond or Bonds, (iv) reduce the percentage of the principal amount of the Bonds required for consent to such amendment or supplement, or (v) reduce the redemption price of such Bonds without the consent of all Owners which are affected; provided, however, notwithstanding such provisions, at any time while a Monetary Default has occurred and is continuing, any amendment or supplement to the Indenture or the Bonds which would otherwise require the consent of a Majority of the Owners affected by such change, shall only require the consent of the Majority of the Senior Bonds provided that any such amendment or supplement does not affect the Owners of the Subordinate Bonds more adversely than the Owners of the Senior Bonds or any Additional Bonds. In addition, if money or United States Government Obligations have been deposited or set aside with the Trustee pursuant to the Indenture for the payment of Bonds and those Bonds have not in fact been actually paid in full, no amendment to the provisions of that portion of the Indenture which would be applicable to such Bonds may be made without the consent of all Owners of such Bonds. After an amendment or supplement becomes effective as permitted in the Indenture, it will bind every Owner.

**Notation on or Exchange of Bonds.** If an amendment or supplement changes the term of a Bond, the Trustee may require the Owner to deliver it to the Trustee. The Trustee may place an appropriate notation on the Bond about the changed terms and return it to the Owner. Alternatively, if the Trustee, the Authority and the Borrowers determine, the Authority in exchange for the Bond will issue and the Trustee will authenticate a new Bond that reflects the changed terms.

**Amendments of and Supplements to the Loan Agreement and Documents.** With the consent of a Majority of the Owners of the Senior Bonds, the Authority and the Trustee may consent to or enter into an amendment or amendments to the Loan Agreement or an amendment or amendments of or a supplement or supplements to any Financial Document or any Collateral Document, for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Loan Agreement, any Financial Document or any Collateral Document. It is not necessary for any act of Owners to approve the particular form of any proposed amendment or supplement to the Loan Agreement, any Financial Document or any Collateral Document, but it is sufficient if such act shall approve the substance thereof.

#### **The Trustee.**

**Duties of Trustee.** Prior to the occurrence of an Event of Default, the Trustee is to perform only those duties that are specifically set forth in the Indenture. If an Event of Default has occurred and is continuing, the Trustee is to exercise its rights and powers and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs. In the absence of bad faith on its part or actual knowledge to the contrary on the part of any Responsible Officer or notice given to it to the contrary by the Borrowers, the Manager, the Authority or any Owner, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed, upon certificates, opinions, requisitions and other documents furnished to the Trustee and conforming to the requirements of the Indenture. However, the Trustee is to examine the certificates and opinions to determine whether they conform to the requirements of the Indenture. The Trustee may refuse to exercise any remedy under the Indenture at the direction of the Majority of the Owners of the Senior Bonds unless it receives indemnity reasonably satisfactory to it against any costs, legal expenses or liabilities arising therefrom. The Trustee may execute any powers under the Indenture and perform any duties required of it through attorneys, agents, officers or employees, and is entitled to advice of counsel concerning all questions hereunder.

**Rights of Trustee.** Under the terms of the Indenture, (i) the Trustee may conclusively rely on any document delivered to the Trustee pursuant to the Indenture reasonably believed by it to be genuine and to have been signed or presented by the proper person; (ii) the Trustee need not investigate any fact or matter stated in the document; (iii) the Trustee is under no obligation to exercise any actions required by the Indenture at the request of the Owners of the Bonds unless such Owners have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses, legal fees and liabilities which may be incurred thereby; and (iv) the Trustee may consult with counsel and the advice of such counsel is full and complete authorization and protection in respect of any action taken, suffered or omitted by it in accordance with such advice. The Trustee in its individual or any other capacity may deal with the Authority on other matters with the same rights it would have if it were not Trustee; provided, however, the Trustee in its individual capacity may have any credit extended to the Borrowers or have any other financial interest in the Series 2005 Project or the Facilities which is not unacceptable to a Majority of the Owners of the Senior Bonds. Any paying agent may do the same with like rights.

**Trustee's Disclaimer.** The Trustee makes no representation as to the validity or adequacy of the Indenture or the Bonds (other than the Indenture's having been duly authorized and executed by the Trustee and the Indenture being a valid and binding obligation of the Trustee), nor is the Trustee accountable for the Borrowers' use of the proceeds from the Bonds paid to the Borrowers in accordance with the terms of the Indenture, nor is it responsible for any statement in the Bonds other than its certificate of authentication.

#### **SUMMARY OF CERTAIN PROVISIONS OF LOAN AGREEMENT**

*The following, in addition to information provided elsewhere in this Official Statement, summarizes certain terms and provisions of the Loan Agreement. Such summary does not purport to be comprehensive, and reference should be made to the Loan Agreement for more complete information. Copies of the Loan Agreement are available from the Trustee upon request.*

**Loan of Series 2005 Bond Proceeds.** In order to finance the cost of the Series 2005 Project, the Authority will issue and sell the Series 2005 Bonds and lend the proceeds thereof to the Borrowers for application toward the payment of the cost of the Series 2005 Project. In order to evidence the loan of the proceeds of the Series 2005A Bonds, the Borrowers will execute and deliver the Series 2005A Note in the original principal amount of

\$11,120,000. In order to evidence the loan of the proceeds of the Series 2005B Bonds, the Borrowers will execute and deliver the Series 2005B Note in the original principal amount of \$2,735,000. In order to evidence the loan of the proceeds of the Series 2005C Bonds (which Series 2005C Bonds are being delivered to the sellers of the Facilities in payment of a portion of the purchase price of the Facilities), the Borrowers will execute and deliver the Series 2005C Note in the original principal amount of \$3,195,000.

**Loan Payments.** The Borrowers have agreed to pay to the Trustee, as the assignee of the Authority's rights under the Loan Agreement, as payment of the Series 2005 Notes for deposit to the Bond Fund created under the Indenture, the following sums at the following times (or less frequently if paid in advance) in immediately available funds:

(i) on or before each Transfer Date, commencing in December 2005, to each Interest Account of the Bond Fund, the amount necessary to accumulate in equal monthly installments by the last Business Day of the month next preceding each Interest Payment Date the interest on all of the Series 2005 Bonds due on such Interest Payment Date, taking into account (i) the amount of any investment earnings credited to such Interest Account by the Trustee in the previous month, and (ii) any credit granted pursuant to the Indenture; provided, however, that the payment made next preceding each Interest Payment Date are to be in an amount sufficient to provide the balance of the interest on all Series 2005 Bonds due on such Interest Payment Date; and

(ii) on or before the Transfer Date, commencing in January 2006 to each Principal Account of the Bond Fund, the amount necessary to accumulate in equal monthly installments by the last Business Day of the month next preceding each Principal Payment Date the principal due on all Outstanding Series 2005 Bonds (upon maturity or by Sinking Fund Redemption) on such Principal Payment Date, taking into account with respect to each such monthly transfer all other moneys actually available in such Principal Account; provided, however, that the payment made next preceding each Principal Payment Date is to be in an amount sufficient to provide the balance of the principal on all Series 2005 Bonds due on such Principal Payment Date.

If the Authority issues any Additional Bonds under the Indenture, the Authority and the Borrowers are to execute and deliver a supplement to the Loan Agreement providing, among other things, for payment by the Borrowers of additional amounts under the Loan Agreement in respect of such Additional Bonds.

**Facilities.** In the Loan Agreement, the Borrowers covenant that (i) they have obtained all necessary approvals from any and all Regulatory Bodies requisite to the undertaking of the Series 2005 Project; and (ii) they have obtained all required occupancy permits and licenses from appropriate authorities authorizing the occupancy and use of the Facilities for the purposes contemplated by the Borrowers. Moreover, if the proceeds of the Series 2005 Bonds are not sufficient to undertake and complete the Series 2005 Project and to pay all Costs associated therewith in full, the Borrowers have agreed to pay all such Costs in excess of the proceeds of the Series 2005 Bonds available therefor. No warranty, either express or implied, has been made by the Authority or the Trustee that proceeds of Series 2005 Bonds available for payment of the Costs of the Series 2005 Project will be sufficient to pay all such Costs

**Representations, Warranties and Covenants of American Eagle Lifecare.** American Eagle Lifecare has represented, warranted and covenanted to the Authority and the Trustee that:

(i) It (a) is a nonprofit corporation duly organized and validly existing under the laws of the State of its incorporation, (b) has the power and authority to own its properties and assets and to carry on its business as now being conducted and presently planned to be conducted, (c) has the power to execute and perform all the undertakings of the Loan Agreement, to incur its obligations hereunder and to execute, deliver and perform under any documents required hereby, (d) is a Tax Exempt Organization, (e) has received letters from the Internal Revenue Service to that effect, and such letters have not been modified, limited or revoked, (f) is in compliance with all material terms, conditions and limitations, if any, contained in such letters, and the facts and circumstances which form the basis of such letters continue substantially to exist as represented to the Internal Revenue Service.

(ii) It will not take any action or omit to take any action or cause or permit any circumstance within its control to arise or continue if such action or circumstance or omission would cause any revocation or adverse modification of such federal income tax status.

(iii) It will comply with the provisions of any Tax Agreement, and it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on any Tax-Exempt Bonds under Section 103 of the Code and in the event of such action or failure, it will, promptly upon having such brought to its attention, take such reasonable actions based upon advice of Bond Counsel and, in all cases, at the sole expense of American Eagle Lifecare or the Borrowers as may rescind or otherwise negate such action or failure. American Eagle Lifecare will take appropriate steps to insure that none of the Borrowers directly or indirectly, use or permit the use (including the making of any investment) of any proceeds of the Tax-Exempt Bonds or any other funds of the Borrowers, or take or omit to take any action, that would cause the Tax-Exempt Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.

(iv) It has not taken and does not intend to take any action and know of no action that any other person, firm or corporation has taken or intends to take, which would cause interest on the Series 2005A Bonds or the Series 2005C Bonds to be includable in the gross income of the recipients thereof for federal income tax purposes.

**Representations, Warranties and Covenants of Borrowers.** Each of the Borrowers has represented, covenanted, warranted and agreed, jointly and severally, so long as the Loan Agreement remains in effect, or any amounts are due under the Loan Agreement or under any of the Series 2005 Notes, as follows:

**Payment of Principal, Premium and Interest.** Each of the Borrowers will duly and punctually pay the principal of and the premium, if any, and the interest on each of the Series 2005 Notes executed by it on the dates, at the times and at the place and in the manner provided therein when and as the same become payable, whether at maturity, upon call for redemption, by acceleration of maturity or otherwise. Each of the Borrowers unconditionally, absolutely, continually and irrevocably, jointly and severally guaranteed and promised to pay any and all payments on all of the Series 2005 Notes according to the terms thereof; when due. The obligation of each of the Borrowers with respect to payments on the Series 2005 Notes shall not be abrogated, prejudiced or affected by: (a) the granting of any extension, waiver or other concession given to any Borrower by the Trustee; or by any compromise, release, abandonment, variation, relinquishment or renewal of any of the rights of the Trustee or anything done or omitted or neglected to be done by the Trustee in exercise of the authority, power and discretion vested in them by the Indenture, or by any other dealing or thing that, but for this provision, might abrogate, prejudice or affect such obligation; or (b) the liability of another Borrower ceasing for any cause whatsoever.

**Due Authorization of Series 2005 Notes.** Each of the Borrowers is duly authorized under the laws of the state of its organization and all other applicable provisions of law to issue the Series 2005 Notes and to execute the Loan Agreement; and all action on the part of each of the Borrowers required by said laws for the execution and delivery of the Loan Agreement has been, or in connection with issuance of the Series 2005 Notes, will be prior to their issuance, taken.

**General Covenants.** Each of the Borrowers covenants (i) to preserve its limited liability company existence; and to be qualified to do business in each jurisdiction where its ownership of Property or the conduct of its business requires such qualification and when failure to so qualify would materially and adversely affect the consolidated or combined operations, revenues or financial condition of the Borrowers; (ii) to at all times preserve and protect the Facilities in good repair, working order and safe condition, and from time to time will make, or will cause to be made, all needed and proper repairs, renewals, replacements, betterments and improvements thereto including those required after a casualty loss. The Borrowers are to pay all operating costs, utility charges and other costs and expenses arising out of ownership, possession, use or operation of the Facilities; (iii) to operate or cause each of the Facilities to be operated as long-term care facilities for the developmentally disabled, skilled or intermediate care nursing facilities, assisted living, senior housing or other long-term care purposes and the Borrowers are to maintain its certifications for licensure and all other licenses, if any, required by the appropriate Regulatory Bodies; (iv) to comply in good faith with all laws, ordinances and regulations, including without limitation all licensure, building, zoning, safety, environmental, Medicare and Medicaid cost reporting and cost apportioning laws, ordinances and regulations of any Regulatory Body which hereafter in any material manner may affect the Facilities or the use or operation thereof; (v) to not engage in any business other than the operation of the Facilities in a manner consistent with its Articles of Organization and application of American Eagle Lifecare for tax-exempt status; (vi) commencing in December 2005, to make aggregate monthly deposits, initially, in the amount of \$6,666.67, and, increased on January 1 of each year incrementally with any increase in CPI, commencing January

1, 2007, and increased as provided in the Loan Agreement, in the Replacement Reserve Fund; and (vii) to, by July 1 of every fifth year, commencing with July 1, 2010, obtain a satisfactory report from an engineer, as to the physical condition of the Facilities and provide such report to the Trustee, the Underwriter, and any Significant Owner who shall so request (such report is to include a capital asset replacement analysis, an evaluation of the adequacy of the Monthly Replacement Reserve Fund Deposit and a recommendation as to any required increase thereof).

**Insurance.** Each of the Borrowers has agreed, at its sole cost and expense, to keep the Facilities, including all buildings, structures, improvements and personal property, and all other property of an insurable character insured at all times (including any period or periods of time during which any buildings, structures and improvements are in the course of remodeling or construction) and to furnish evidence of the following to the Trustee: (i) policies of "all-risk" insurance on the Facilities in an amount recommended by the Insurance Consultant as hereinafter provided, but not greater than 100% of the full replacement cost of the Facilities without deduction for depreciation and in an amount sufficient to prevent the Trustee or each of the Borrowers from becoming a co-insurer within the terms of the applicable policies. Each policy is to contain a replacement cost endorsement (notwithstanding the forgoing, the Facilities are in any event to be insured in an amount equal to the maximum insurable level for casualty); (ii) flood hazard insurance or evidence that it is not required for the Facilities; (iii) such other insurance on the Facilities and in such amounts as may be recommended by the Insurance Consultant as hereinafter provided against other insurable hazards or casualties which at the time are commonly insured against in the case of premises similarly situated; (iv) business interruption and extra expense insurance in an amount sufficient to pay debt service, taxes or payments in lieu of taxes, the salaries and expenses of key employees of each of the Borrowers and the Manager required for the operation of the Facilities and other non-avoidable costs for at least a 12-month period, during which the Facilities, when damaged or destroyed by one of the hazards insured against by the insurance described in clause (i) above, shall be under reconstruction, rebuilding or repair and until replaced in usable condition for each of the Borrowers; and (v) boiler and machinery coverage (direct damage and use and occupancy) on a replacement cost basis.

The Borrowers, at their own cost and expense, will provide and keep in force during the term of the Indenture (i) comprehensive general liability insurance on the Facilities and, if appropriate, automobile liability insurance, with limits in amounts determined to be sufficient by the Insurance Consultant and not unacceptable to a Majority of the Owners of the Senior Bonds; (ii) workers' compensation and employer's liability insurance covering all employees of the Borrowers or the Manager employed at the Facilities in amounts required by law; provided, however, that the Borrowers may provide and maintain, in lieu of such insurance, a state-approved self-insurance or captive insurance program; (iii) excess liability insurance for comprehensive general liability insurance and automobile liability insurance with a combined limit of not less than such amounts as are determined to be sufficient by the Insurance Consultant and not unacceptable to a Majority of the Owners of the Senior Bonds; (iv) fidelity bonds, or employee crime and dishonesty coverage provided by a commercial insurance carrier, on all officers and employees of the Borrowers or any manager of the Facilities who collect or have custody or access to revenues, receipts of income from the Facilities, or any funds of the Borrowers, such bonds to be in such amounts as are customarily provided by like organizations engaged in like activities of comparable size and having comparable income; (v) medical liability, malpractice and other nursing facility operation liability insurance with respect to the Morning Breeze Facility, and provide coverage against claims arising from the professional services performed by the Borrowers with limits with respect to injury or death of not less than \$1,000,000 per person or occurrence, and not less than \$3,000,000 in the aggregate for claims made in any one year. The insurance and fidelity bonds required to be maintained pursuant to the Loan Agreement is subject to review of the Insurance Consultant in each year, and the Borrowers have agreed that they will follow any recommendations of the Insurance Consultant. In the event that any insurance required in the Loan Agreement is commercially unavailable at a reasonable cost, the Borrowers, upon notice to the Trustee, may provide such substitute coverage as is recommended by the Insurance Consultant at a reasonable cost and not unacceptable to a Majority of the Owners of the Senior Bonds. Any self-insurance plan is to be subject to the conditions set forth in the Loan Agreement.

#### **Financial Covenants.**

**Debt Service Coverage.** The Borrowers have agreed to establish and charge such rents, fees and other charges relating to the Facilities and to restrict operating and maintenance expenses relating to the Facilities as is necessary to achieve a Debt Service Coverage Ratio as of each Annual Evaluation Date, commencing December 31, 2006, and as of each Quarterly Evaluation Date, commencing December 31, 2005, of at least 1.15.

**Liquidity Covenant.** The Borrowers have agreed to establish and maintain (i) a minimum balance of cash and cash equivalents in the Facilities bank operating accounts and the Operating Reserve Fund, plus (ii) undrawn amounts available to be drawn under the Line of Credit as of each Quarterly Evaluation Date, commencing with the December 31, 2005 Quarterly Evaluation Date as follows:

<u>Quarterly Evaluation Date</u>	<u>Days Cash-on-Hand</u>
December 31, 2005	20.0
March 31, 2006	22.5
June 30, 2006	25.0
September 30, 2006	27.5
December 31, 2006, and each Quarterly Evaluation Date thereafter	30.0

**Trade Payables Covenant.** The Borrowers have agreed that the number of days of trade account payables unpaid shall not exceed the Maximum Trade Payables Level as of each Quarterly Evaluation Date.

**Reporting and Compliance.** Within 45 days after each Quarterly Evaluation Date commencing December 31, 2005 and 90 days after each Annual Evaluation Date commencing December 31, 2006 (each such date is referred to herein as a “Report Date”), the Borrowers are to submit to the Trustee, the Underwriter, and each Significant Owner who requests in writing, a report evidencing compliance or non-compliance with each of the Financial Covenants. If the Borrowers (i) fail to comply with the Debt Service Coverage Ratio or the Liquidity Covenant as of any Quarterly Evaluation Date; (ii) fail to comply with the Debt Service Coverage Ratio as of any Annual Evaluation Date; or (iii) fail to comply with the Trade Payables Covenant as of two consecutive Quarterly Evaluation Dates, the Owners of a Majority of the Senior Bonds have the right to require the Borrowers to transfer and convey the Facilities to entities approved by the Owners of a Majority of the Senior Bonds upon such terms and conditions as are satisfactory to the Owners of a Majority of the Senior Bonds; provided, however, any such transfer is to be for a purchase price not less than the fair market value of the Facilities as evidenced by an appraisal in form and substance acceptable to the Majority of Owners of the Senior Bonds from an appraiser acceptable to a Majority of Owners of the Senior Bonds. If the Borrowers (i) fail to comply with the Debt Service Coverage Ratio, the Liquidity Covenant or the Trade Payables Covenant as of any Quarterly Evaluation Date; or (ii) fail to comply with the Debt Service Coverage Ratio as of any Annual Evaluation Date, the Owners of a Majority of the Senior Bonds have the right to direct the Borrowers to retain a Consultant to provide a report recommending what actions the Borrowers should take in order to increase revenues and decrease expenses in order to comply with the Financial Covenants and the Borrowers have agreed to implement such recommendations. If the Borrowers fail to comply with the Debt Service Coverage Ratio, the Liquidity Covenant or the Trade Payables Covenant as of two consecutive Quarterly Evaluation Dates, the Owners of a Majority of the Senior Bonds have the right to replace the Manager.

**Merger, Consolidation, Sale or Conveyance.** Each of the Borrowers has covenanted that it will maintain its limited liability company existence and will not merge or consolidate with any other limited liability company, corporation, partnership, joint venture, business trust or other entity or sell or convey all or substantially all of its assets to any person or enter into a Regulated Agreement (clause (i) and (vi) are not applicable to entry into a Regulated Agreement), unless: (i) a Borrower will be the continuing limited liability company or, if the successor limited liability company or other transferee entity is not any one of the Borrowers, such successor limited liability company or other transferee entity is to be a limited liability company, corporation or business association organized and existing under the laws of the United States of America or a state thereof and is to execute and deliver to the Trustee and the Authority an appropriate instrument containing the agreement of such successor limited liability company, corporation or other transferee entity to assume all of the obligations and restrictions of such Borrower under the terms of the Indenture; (ii) no Borrower immediately after such merger or consolidation, or such sale, or conveyance, would be in default in the performance or observance of any covenant or condition of the Financing Documents and the conditions described in the Loan Agreement would be met for the incurrence of one dollar of additional Long-Term Indebtedness; (iii) the Trustee and the Authority receive an Opinion of Counsel to the effect that any such consolidation, merger, sale, or conveyance, and any such assumption, complies with the provisions of the Loan Agreement; (iv) the Trustee and the Authority receive an Opinion of Bond Counsel to the effect that such

consolidation, merger, sale or conveyance and any such assumption will not adversely affect the exclusion (if any) of interest on the Series 2005 Bonds from gross income under the Code; (v) the Authorized Borrower Representative has given written notice to the Trustee and each Significant Owner at least ninety (90) days prior to such merger or consolidation, sale or conveyance and a Majority of the Owners of the Senior Bonds shall not have objected thereto in writing delivered to the Trustee; (vi) the net worth of the surviving, resulting or transferee entity following the merger, consolidation or transfer is equal to or greater than the net worth of the entity immediately preceding the merger, consolidation or transfer, as evidenced by the certificate of a Certified Public Accountant; (vii) immediately following the merger, consolidation or transfer, covenants under the Loan Agreement will be met as evidenced by the certificate of Certified Public Accountant; (viii) any litigation or investigations in which the surviving, resulting or transferee entity or its officers and directors or partners are involved, and any court, administrative or other orders to which the surviving, resulting or transferee entity or its officers and directors or partners are subject, relate solely to matters arising in the ordinary course of business; and (ix) after the merger, consolidation or transfer, the Facilities are to be operated as an authorized project under the enabling statute for the Series 2005 Bonds. Notwithstanding the forgoing provisions, a Borrower may transfer the Mortgaged Property to any business entity which is an Affiliate of such Borrower (the “transferee”) and be released from its obligations hereunder and under the Mortgages, provided that each of the following conditions is met prior to such transfer: (i) the transferee is a business entity described in Section 501(c)(3) of the Code formed solely for the purpose of owning and operating the Mortgaged Property which prior to such transfer has no assets (or nominal assets) and no liabilities; (ii) the transferee executes and delivers an appropriate instrument assuming all of the obligations of such Borrower hereunder and under the Mortgages; (iii) there is delivered to the Trustee and each Significant Owner an Opinion of Counsel to the effect that (A) the transferee is an organization described in Section 501(c)(3) of the Code, (B) the obligations of the transferee assumed pursuant to clause (ii) above are the legal valid and binding obligations of the transferee, enforceable against it in accordance with its terms (subject to bankruptcy, insolvency, receivership, moratorium and other laws generally affecting the rights of creditors and to general principles of equity), and (C) the conditions of in this sentence have been met; (iv) the Trustee and each Significant Owner have received an Opinion of Bond Counsel to the effect that such transfer and assumption will not adversely affect the exclusion (if any) of interest on any Series 2005 Bonds from the gross income under the Code; and (v) if such Mortgaged Property is licensed and eligible for Medicare and Medicaid reimbursement, the Trustee and each Significant Owner have received an Opinion of Counsel that such transferee will be duly licensed and eligible for Medicare and Medicaid reimbursement.

**Annual Reports and Other Information.** The Borrowers are to from time to time render such reports concerning the condition of the Facilities or compliance with the Indenture as the following parties may reasonably request: Underwriter, Trustee and any Significant Owner. Any such report is to be sent to each of the foregoing parties. In addition:

(i) on or before the 120th day following each Annual Evaluation Date, each of the Borrowers is to furnish a certificate signed by its president or vice president, accompanied by a report of a Certified Public Accountant, stating that such Borrower has caused its operations for the year to be compiled and that in the course of that compilation, no default under the Indenture, the Loan Agreement, the applicable Financing Documents has come to its attention or, if such a default has appeared, a description of the default and a plan for the remedy of the default;

(ii) on or before the 120th day following each Annual Evaluation Date, each of the Borrowers is to furnish copies of (1) its compiled financial statements for the fiscal year ending on such date, prepared by a Certified Public Accountant, and (2) any management letter delivered by the compilers in connection with such financial statements;

(iii) on or before the 120th day following each Annual Evaluation Date, the Borrowers are to deliver a report of the Borrowers evidencing the Borrowers’ compliance or non-compliance with each of the Financial Covenants and such report is to be reviewed by a Certified Public Accountant;

(iv) within 45 days after each Quarterly Evaluation Date, each of the Borrowers is to furnish copies of its internally generated unaudited balance sheet as of such Quarterly Evaluation Date and statement of operations for the quarter ending on such Quarterly Evaluation Date, prepared on an accrual basis, together with (i) a supplemental report of the operating statistics of the related Facility, including calculations evidencing the Borrower’s compliance

or noncompliance with each of the Financial Covenants, and any other operating information which the Underwriter, the Trustee or any Significant Owner may reasonably request, (ii) a comparison showing the variance of the annual budget to the statement of operations for the quarter and (iii) a Certificate of each of the Borrowers in reasonable detail, evidencing the Borrowers' compliance or non-compliance with the Financial Covenants as of such Quarterly Evaluation Date;. The information is also to include year to date statements and is to be compared to the Operating Budget.

Within 45 days after the close of each quarter of each Fiscal Year, the Trustee is to provide statements detailing the fund balances for all funds held under the Indenture to all of the Owners of the Series 2005 Bonds who request such information.

Each of the Borrowers has agreed that the Underwriter, the Trustee and any Significant Owner, by their duly authorized representatives, at reasonable times, upon reasonable notice to the Borrowers in writing, may inspect any of the Facilities and each of the Borrowers' books and records and discuss the financial affairs of each of the Borrowers with the chief financial officer or chief executive officer of such Borrower.

The Authorized Borrower Representative is to provide to any Significant Owners upon request copies of all state inspection reports with respect to the Facilities and plans of correction in response thereto.

**Limitations on Additional Indebtedness.** Subsequent to the date of issuance of the Series 2005 Bonds, each of the Borrowers has covenanted not to incur any Indebtedness other than (a) Long-Term Indebtedness as permitted pursuant to the Loan Agreement; (b) Short Term Indebtedness as permitted pursuant to the Loan Agreement; and (c) liabilities (other than for borrowed money and other than rents payable under capital lease agreements) in the normal course of operations of the Facilities.

**Long-Term Indebtedness - General Provisions.** A Borrower will be permitted to incur Long-Term Indebtedness for the purpose of financing Capital Additions, financing the acquisition, construction and equipping of additional Facilities or refinancing existing Indebtedness upon delivery to the Trustee of all the following items:

(a) An Officer's Certificate (i) setting forth in reasonable detail the estimated use of the proceeds of the Long-Term Indebtedness and demonstrating the adequacy of such proceeds, together with the proceeds of any additional financing contemplated for such uses and with any other moneys available for such uses, (ii) stating that no Event of Default has occurred and is continuing and (iii) stating that such Borrower is in compliance with the Financial Covenants to the extent applicable, and that the applicable requirements under all Financing Documents then in effect have been satisfied.

(b) An Opinion of Counsel to the effect that (i) the incurrence of the Long-Term Indebtedness has been duly authorized by such Borrower and will not result in an Event of Default hereunder or a default under the terms of any Long-Term Indebtedness then outstanding, (ii) all necessary approvals of all Regulatory Bodies having jurisdiction have been obtained with respect to the incurrence of the Long-Term Indebtedness, the commencement of any construction (including renovations) to be financed with the proceeds thereof, and any other application of proceeds of the Long-Term Indebtedness, and (iii) such Counsel is not aware of any facts or circumstances which would prevent the timely application for or receipt of all further approvals required to be obtained from any Regulatory Bodies during the course of any construction to be financed or upon completion thereof.

(c) If any construction (including renovations) is to be financed with the proceeds of the Long-Term Indebtedness, a certificate of an Independent Architect to the effect that (i) the estimated Cost of construction, as reflected in the Officer's Certificate delivered pursuant to subsection (a) above, is reasonable, (ii) all necessary approvals for such construction which are required to be in effect at the time of incurrence of the Long-Term Indebtedness have been obtained from all Regulatory Bodies having jurisdiction and the signer is not aware of any facts or circumstances which would prevent the timely application for or receipt of all further approvals required to be obtained from any Regulatory Bodies during the course of such construction or upon completion thereof, and (iii) all necessary plans and specifications have been approved by the Independent Architect.



(d) If any construction (including renovations) is to be financed with the proceeds of the Long-Term Indebtedness, executed counterparts or certified copies of Construction Contracts (including all change orders or amendments then in effect) covering all construction or renovation work which is not to be undertaken by employees of such Borrower, together with all surety bonds and policies or certificates of insurance required to be delivered pursuant to the Loan Agreement.

(e) If any construction (including renovations) or acquisition of Facilities is to be financed with the proceeds of the Long-Term Indebtedness, an Opinion or Opinions of Counsel: (i) stating that such Borrower has acquired or will acquire as funds are advanced good and marketable title to or a valid and enforceable real property interest in all property to be acquired or constructed in connection therewith, subject only to Permitted Encumbrances; (ii) stating that the Trustee has acquired or will acquire a valid and enforceable mortgage lien on all property to be acquired or constructed in connection therewith, subject only to Permitted Encumbrances; and (iii) to the same effect, with respect to permits and approvals, as the Independent Architect's certificate described in (c) above for construction or renovation.

(f) Except in the case of Long-Term Indebtedness described in (i) below, a Certified Public Accountant's Certificate demonstrating and concluding that, for the Fiscal Year immediately preceding the incurrence of the Long-Term Indebtedness, such Borrower has complied with the Financial Covenants to the extent applicable.

(g) Except in the case of Long-Term Indebtedness described in (i) below, (A) to the extent applicable, the Debt Service Coverage Ratio for the Annual Evaluation Date for the most recent Fiscal Year for which compiled financial statements are required to be available is at least 1.15, (B) a feasibility study is delivered prepared by a Consultant forecasting a Debt Service Coverage Ratio taking into account the Long-Term Indebtedness to be issued of a least 1.15 for each of the two full Fiscal Years following the projected completion date of the Capital Addition to be financed with such proceeds or the date to which interest has been capitalized, whichever is earlier, or following the date of issue of such Long-Term Indebtedness for an acquisition and (C) following such issuance the Leverage Ratio shall be no less than 0.08.

(h) For all Long-Term Indebtedness issued for the purpose of refunding the Series 2005 Bonds or any other Indebtedness of a Borrower: (i) executed counterparts of such documents as are necessary or appropriate for the purposes of the refunding, including, if such Indebtedness is immediately not payable, an escrow agreement providing for the deposit and application of funds for the refunding and irrevocable instructions with respect to any required redemption; and (ii) a resolution of the Board of Directors of such Borrower finding that such refunding is in the best interests of such Borrower and stating the reasons for such refunding.

(i) With respect to any Long-Term Indebtedness issued to refund other Long-Term Indebtedness without meeting the requirements of (f) or (g) above, (i) a report of a Certified Public Accountant to the effect that, upon the incurrence of such Long-Term Indebtedness, the Debt Service Requirements on all Long-Term Indebtedness, taking into account the Long-Term Indebtedness being incurred but not the Long-Term Indebtedness being refunded, will not be increased in any Fiscal Year, and (ii) an Opinion of Counsel to the effect that, upon the incurrence of such Long-Term Indebtedness, the Long-Term Indebtedness being refunded will no longer be outstanding under the terms of the applicable financing documents.

(j) Without meeting the requirements of paragraphs (b) - (i) above and paragraph (k) below, the Borrowers may also incur additional Long-Term Indebtedness in an aggregate principal amount such that such principal amount together with the principal amount outstanding of other Indebtedness incurred under this paragraph does not exceed 3% of the Net Revenues of the Borrowers for the preceding Fiscal Year in order to acquire equipment and fixtures for the Facilities; provided such indebtedness is in the form of purchase money security interests or capital leases for such equipment and the liens on which equipment may be superior to any liens granted to secure the Borrower's obligations with respect to the Series 2005 Notes.

(k) Except in the case of Long-Term Indebtedness described in paragraph (j) above, the prior written consent of the Majority of the Owners of the Senior Bonds.

**Additional Provisions Concerning Certain Forms of Long-Term Indebtedness.** For the purpose of the Indenture, the Debt Service Requirements on any Variable Rate Indebtedness or any Long-Term Indebtedness in the form of a guaranty are to be determined as follows:

(a) Variable Rate Indebtedness. (i) The interest rate on Variable Rate Indebtedness to be incurred is to be assumed to be equal to the average rate of The Bond Buyer Revenue Bond Index of interest rates of 30-year revenue bonds over the preceding twelve months plus one percent (1%); and (ii) the interest rate on Variable Rate Indebtedness already incurred is to be assumed to be equal to the weighted average of the rates in effect on such indebtedness for the immediately preceding twelve-month period or such shorter period as such Variable Rate Indebtedness may have been outstanding plus one percent (1%).

(b) Guaranties. For the purposes of any required calculation of Debt Service Requirements, the Debt Service Requirements on any Long-Term Indebtedness in the form of a guaranty (including any such obligation arising by reason of a general partnership interest in the Primary Obligor) shall be deemed equal to 100% of the debt service requirements on the indebtedness or portion thereof being guaranteed for each Fiscal Year. For purposes of the foregoing, the debt service requirements on any guaranteed indebtedness shall be calculated in the same manner as specified for the calculation of Debt Service Requirements under the Loan Agreement.

(c) Provisions Not Mutually Exclusive. The provisions in (a) and (b) are not mutually exclusive. If two or more of the foregoing provisions are applicable to any particular Long-Term Indebtedness, each such provision is to be applied, as appropriate. The foregoing also applies to any required calculation of the debt service requirements on any indebtedness of a similar nature which is guaranteed by a Borrower.

**Short Term Indebtedness.** The Borrowers may incur Short Term Indebtedness in addition to the Line of Credit from time to time for the purpose of providing working capital to pay Operating Expenses provided that prior to the incurrence thereof, the Trustee has been furnished with an Officer's Certificate in reasonable detail (including all supporting data) demonstrating that the principal amount of any Short Term Indebtedness to be incurred, when added to the then outstanding principal amount of all Short Term Indebtedness of the Borrowers (other than the Line of Credit) shall not exceed 15% of the Borrowers' total operating revenues for the Fiscal Year immediately preceding the date of such incurrence; and the principal amount of such Short-Term Indebtedness (other than the Line of Credit) incurred is to be reduced to zero for at least 30 consecutive days in each Fiscal Year; provided that the foregoing shall not apply if the Borrowers deliver to the Trustee an Officer's Certificate stating that having Short Term Indebtedness outstanding in excess of such limit is necessary to offset a temporary delay in receipt of funds from third party payors and a Consultant's certificate stating that the outstanding balance of Short Term Indebtedness has been reduced to the minimum practicable amount taking into account such delay.

**Restrictions on Encumbrance - Sale and Lease of Property.** A Borrower may dispose of equipment, furnishings and fixtures (1) which have become obsolete, worn out or unnecessary for the operation of the Facilities provided replacements are made if needed to comply with the Loan Agreement, or (2) in the ordinary course of business for which such Borrower receives property having a fair market value equal to the property being disposed. As long as no Event of Default has occurred and is continuing and no deficiency exists in any Fund, except as otherwise limited by any Financing Documents, a Borrower may transfer cash (other than amounts held in funds under the Indenture) in exchange for property or services in connection with the normal operation of the Facilities, to pay the costs of Capital Additions permitted herein, or use such funds for any other lawful purpose of the Borrowers. A Borrower will be permitted to transfer a Facility upon delivery to the Trustee of (A) an Officer's Certificate (i) showing that the Borrowers have met the requirements of the Debt Service Coverage Covenant and Liquidity Covenant for the most recent Fiscal Year and fiscal quarter and (ii) stating that such transfer will not impair the use, operation or value of the remaining portion of the Mortgaged Property; and (B) an opinion of Bond Counsel that such transfer will not cause any Series 2005 Bonds to lose the exclusion from gross income for Federal income tax purposes; and (C) the prior written consent of the Owners of a Majority of the Senior Bonds. Upon receipt of the foregoing, the Trustee is to release the Facility from the lien of the Mortgages. Any proceeds received from the transfer of property described under this paragraph are to be applied as directed by the Owners of a Majority of the Senior Bonds, to one or more of the following purposes: (i) to the acquisition, construction or improvement of a Facility subject to the Mortgages; (ii) to the optional redemption of all or a portion of the Series 2005 Bonds (as determined and directed by the Owners of a Majority of the Senior Bonds); or (iii) to the making of a deposit into the Replacement Reserve Fund.

**Liens on Property.** Except for Permitted Encumbrances or as provided in the Loan Agreement, no Borrower may, without the written consent of the Trustee: encumber its title to any of the Property to secure indebtedness; sell, lease to others or otherwise dispose of all or any portion of the Property or any interest therein; permit others to occupy the Property; or create or suffer to be created or permit the existence of any lien upon the Property.

**Authorized Borrower Representative.** Any decision, determination or judgment required or permitted by the Indenture or the Loan Agreement to be made by the Borrowers may be made by the Authorized Borrower Representative.

**Damage, Destruction or Condemnation.** Damage to or destruction of all or any portion of the Facilities by fire or any other cause, or taking or loss of all or a portion of the Facilities by condemnation or title defect so as to prevent the continued use thereof, shall not terminate the Indenture or cause any abatement of or reduction in the payments to be made by the Borrowers under the Loan Agreement, or otherwise alter the obligations of the Borrowers as set forth in the Loan Agreement; however, in the event of any damage, destruction, condemnation or taking under the threat of condemnation with respect to the Facilities, the proceeds thereof are to be expended as directed by a Majority of the Owners of the Senior Bonds to (i) repair or replace the Facilities as set forth in the Loan Agreement, or (ii) redeem the Series 2005 Bonds pursuant to the Extraordinary Redemption provision pertaining to the Series 2005 Bonds.

**Selection of Manager: Change in Manager.** The Borrowers at all times are to retain a competent professional management company to manage each of the Facilities or, with the consent of a Majority of the Owners of the Senior Bonds, may operate the Facilities directly; provided, however, that the Borrowers are not to enter into any Management Agreement with any Manager unless, prior thereto, they have delivered to the Trustee an opinion of Bond Counsel to the effect that the execution, delivery and performance of such Management Agreement will not adversely affect the exclusion (if any) of the interest on any Series 2005 Bonds from gross income for federal income tax purposes. Moreover, the Borrowers have covenanted not to terminate, amend or renew any Management Agreement or enter into any new Management Agreement or engage a new Manager; unless such action is approved by the Owners of more than 50% of the aggregate principal amount of the Outstanding Senior Bonds.

**Operating Budget.** At least 5 days prior to the closing on the acquisition of each of the Facilities and at least 30 days before the first day of each Fiscal Year, the Authorized Borrower Representative is to file or cause the Manager to prepare and deliver to the Trustee and, upon written request, any Significant Owner, an Operating Budget for each of the Facilities adopted by the Borrowers for such Fiscal Year, which Operating Budget is to be certified by the Manager and accompanied by a certificate of the Authorized Borrower Representative stating that such Operating Budget provides for compliance with each of the Financial Covenants. The Trustee is to provide at the Borrowers' expense a copy of such Operating Budget and any amendments thereto to any Owner upon written request. The Borrowers are to provide the Trustee a written schedule of the monthly transfers budgeted under such Operating Budget to be made by the Trustee under the Indenture. Each month on or before the Transfer Date, a certificate of the Authorized Borrower Representative is to be provided to the Trustee with a schedule setting forth the monthly transfers required under the Indenture comparing those to the budgeted amounts.

**Security for Indebtedness.** Indebtedness incurred pursuant to the Loan Agreement may be secured only by such liens, security interests or other similar rights and interests (hereinafter collectively referred to as "liens") as are permitted below:

Long-Term Indebtedness incurred pursuant to the Loan Agreement may be secured as follows:

(i) Long-Term Indebtedness in an aggregate principal amount such that such principal amount together with the principal amount outstanding of other Indebtedness incurred under this paragraph does not exceed 3% of the Net Revenues of the Borrowers for the preceding Fiscal Year in order to acquire equipment and fixtures for the Facilities may be secured by purchase money security interests or capital leases for such equipment and the liens on which equipment may be superior to any liens granted to secure the Borrower's obligations hereunder.

(ii) Long-Term Indebtedness may be secured by liens on any of the Mortgaged Property which are of equal rank and priority with all liens now or hereafter granted on the Mortgaged Property to secure the Borrowers'

obligations under the Loan Agreement, provided that: (1) if such Indebtedness is further secured by liens on properties and revenues other than the Mortgaged Property, a lien of equal rank and priority is granted upon the same properties and revenues to secure the Borrowers' obligations hereunder; and (2) the documents providing for the repayment of and security for such Indebtedness provides that: (a) an Event of Default hereunder shall constitute a default thereunder, and (b) all Gross Revenues shall be paid over to and collected by the Trustee for pro rata application to such Indebtedness and the Borrowers' obligations hereunder.

(iii) Long-Term Indebtedness may be secured by liens on all or a portion of the Mortgaged Property which is expressly subordinate in priority of lien and right of payment to all liens now or hereafter granted on the Mortgaged Property to secure the Borrowers' obligations under the Loan Agreement or to secure other Long-Term Indebtedness pursuant to subparagraph (ii) above.

Short Term Indebtedness incurred pursuant to the Loan Agreement may be secured by liens on the Borrowers' Accounts Receivable and the proceeds thereof which may be superior to the liens thereon granted hereunder and under the Mortgages or may be secured by liens on other Gross Revenues which shall be expressly subordinate in priority of lien and right of payment to the lien on Gross Revenues granted hereunder and under the Mortgages.

**Payment of Taxes and Other Charges.** The Borrowers, prior to the date on which any interest or penalties commence to accrue thereon, are to cause to be paid and discharged all taxes (including but not limited to ad valorem taxes), assessments, water and sewer rents and charges and all license or per fee, levies and governmental charges, payments in lieu of any of the foregoing, general or special, ordinary or extraordinary, foreseen or unforeseen, of any kind and nature whatsoever, which are or may not have been, or may hereafter be, charged, assessed, levied, or imposed upon or against the Facilities, or any part thereof, by any lawful authority, or which may become a lien thereon. The Borrowers may not suffer, and are to promptly cause to be paid and discharged any lien or charge whatsoever which by any present or future law may be or become superior, or on a parity with or junior to, either in lien or in distribution out of the proceeds of any judicial sale, the lien of the Mortgages. The Borrowers are to cause to be paid, when due, all charges for utilities whether public or private. Notwithstanding the foregoing, the Borrowers may in good faith contest the validity or amount of any such tax or charge in accordance with provisions set forth in the Loan Agreement.

**Tax Covenants.** Each of the Borrowers has covenanted to comply with the provisions of any Tax Agreement, and that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on any Tax-Exempt Bonds under Section 103 of the Code and in the event of such action or failure, it will, promptly upon having such brought to its attention, take such reasonable actions based upon advice of Bond Counsel and, in all cases, at the sole expense of the Borrowers as may rescind or otherwise negate such action or failure. The Borrowers will not, directly or indirectly, use or permit the use (including the making of any investment) of any proceeds of the Tax-Exempt Bonds or any other funds of the Borrowers, or take or omit to take any action, that would cause the Tax-Exempt Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code. In the event that at any time the Authorized Borrower Representative is of the opinion that it is necessary to restrict or limit the yield on the investment of any moneys held by the Trustee under the Indenture or otherwise, the Authorized Borrower Representative is to so instruct the Trustee in writing, and cause the Trustee to take such action as may be necessary in accordance with such instructions.

**Costs and Expenses.** The Borrowers are to pay all expenses in connection with the preparation, execution, delivery, recording and filing of the Financing Documents and other collateral documents and in connection with the preparation, issuance and delivery of the Series 2005 Bonds, the fees and expenses of Bond Counsel, the fees and expenses of the Trustee and the fees and expenses of Trustee's counsel. The Borrowers are also pay throughout the term of the Series 2005 Bonds the annual fees and expenses of the Authority and the Trustee's annual fees and expenses under the Financing Documents, including, but not limited to, reasonable attorney's fees and all costs of issuing, marketing, collecting payment on and redeeming the Series 2005 Bonds thereunder (and any reasonable costs and expenses of any Significant Owner in connection with any approval, consent or waiver under, exercise of remedies under, or modification of, any such document).

### **Environmental Matters.**

Each of the Borrowers has represented and warranted with respect to its Facilities that to the best of its knowledge: (i) it has been and continues to be in compliance with all laws, rules and regulations applicable to any portion of the Facilities governing protection of the public health and the environment and that no notice has been given to the Borrowers by any governmental authority or any person or entity claiming any violation of any federal, state or local statute, ordinance, rule, regulation or other requirement of law, or demanding remediation of or payment or contribution for any environmental condition, or payment or contribution for any environmental condition, contamination or any damages, costs or fees attributable thereto; (ii) no summons, citation, directive complaint, notice of violation, investigation, administrative order, consent order, lien, superlien or agreement, litigation or settlement with respect to any Hazardous Substance of any kind located in, on, about, under or from all or any portion of the Facilities or that is attributable from all or any portion of any Facilities or that is attributable to the Borrowers at any location or in any jurisdiction, exists, is pending, or to the best of its knowledge, is proposed, threatened or anticipated; (iii) the Facilities have never been used by the Borrowers or by previous owners, lessees, operators and/or any other persons or entities to refine, produce, store, handle transfer, process, treat, transport, dispose of or otherwise deposit Hazardous Substances including but not limited to asbestos in any form or condition, PCBs and urea-formaldehyde; (iv) no Hazardous Substances are present in, on, about or under any portion of the Facilities, and (v) no above ground or underground storage tanks are or have ever been located on any portion of the Facilities; and (vi) there is no actual or threatened release of any Hazardous Substance or any other environmental condition in, on, about, under or from any portion of the Facilities, or any other property that may: restrict the development or any use of any portion of the Facilities; increase the cost of operating or maintaining any portion of the Facilities; present any risk to any persons or things on or off of any portion of the Facilities; or diminish or impair the value or marketability of any portion of the Facilities.

In addition, each of the Borrowers has covenanted that: (i) it will not treat, discharge, spill, dispense, dispose, leak, pump, emit, pour, empty, dump or otherwise release or create a threat of release of any Hazardous Substance or any waste of any kind in, on or under any portion of the Facilities and it will not cause, suffer, allow or permit any other person or entity to do so; (ii) it will not refine, produce, handle, transfer, process, treat, transport, use, generate, hold or store any Hazardous Substance or any waste of any kind, except that: (A) construction materials, office equipment, other office furnishings, cleaning solutions and other maintenance materials that are or contain Hazardous Substances may be used, held or stored on any portion of the Facilities, provided such use, holding or storage is normally incident to and reasonably necessary for the construction, operation, or maintenance of any portion of the Facilities as currently operated and is in accordance with all applicable law except that no asbestos, asbestos-containing materials or PCBs may be brought onto any portion of the Facilities; (B) reasonable quantities of Hazardous Substances may be used, stored or held on any portion of the Facilities if such activity is incident to the Borrowers' customary use of such substances on any portion of the Facilities, provided such substances are properly packaged, labeled, stored, held and used in a safe manner in accordance with all applicable law; (C) reasonable quantities of municipal waste may be generated by the Borrowers on any portion of the Facilities and such waste may be stored temporarily on any portion of the Facilities, provided such activity is performed in compliance with all applicable law and provided all such waste is removed within a reasonable amount of time after it is generated; and (D) reasonable quantities of infectious waste as defined in Indiana Code § IC 16-41-16-4 and Indiana Administrative Code, Title 410 § 1-3-10, or the applicable laws of any other state may be generated and stored on any portion of the Facilities, so long as their storage, disposal and treatment are performed in accordance with all applicable laws, rules and regulations; (iii) it will not generate, use, hold or store any Hazardous Substance that is permitted above, in a manner so as to create a risk or threat of its release on, under or from any portion of the Facilities; (iv) it will provide written notice to the Trustee within one week of the Borrowers' knowledge of any and all discharges, spills, disposals or other releases on or from any portion of the Facilities to the environment of any Hazardous Substance that are not completely cleaned up and removed within three (3) business days of such release; (v) except for water or oxygen tanks, it will give written notice to the Trustee of any installation of any type of storage tank, whether it is under or above-ground, at any portion of the Facilities, and will comply with all applicable laws and regulations concerning installation of any type of storage tank, including water tanks; (vi) it will, within five (5) business days of receipt, notify the Trustee and provide the Trustee with copies of any notice of violation from any government agency, notice of filing of any administrative, civil or criminal action by any person or entity, notice of any investigation or request, other than routine administrative requests for information or related materials by any government agency, relative to any environmental condition in, or, about, under or from any portion of the Facilities; (vii) if there is a spill, discharge, disposal, or other release or

the threat thereof; of a Hazardous Substance from any portion of the Facilities to the environment, the Borrowers will: (A) promptly take all measures necessary to contain and remove discharges, spills, disposals or other releases of any Hazardous Substance to the environment and remedy and mitigate any and all threats to health, property and the environment in a manner consistent with all applicable law; and (B) provide the Trustee, within thirty days after demand by the Trustee, with a bond, letter of credit, or similar financial assurance evidencing to the Trustee's satisfaction that the necessary funds are available to pay the costs of investigating, removing, treating and disposing of Hazardous Substances, wastes of any kind, or material contaminated by such Hazardous Substances or wastes and discharging any assessments that are or may be imposed on the Borrowers and/or any portion of the Facilities as a result thereof; (viii) it will include or have included in any contracts and agreements of any kind entered into or renewed after the date of execution and delivery of the Indenture for the operation or management or occupancy of or the performing of any activities (other than routine maintenance service and other insubstantial activities) at any portion of the Facilities substantially the same limitations on the activities of such other contracting party as are placed on the Borrowers by this subsection; and (ix) it will permit the Trustee and its authorized representatives to enter and inspect and assess the Facilities at reasonable times to determine the Borrowers' compliance with the above conditions.

**Non-compete Provision.** No Borrower nor any Affiliate of a Borrower may own, build, operate, acquire or otherwise maintain any interest, directly or indirectly, in any facility providing services substantially similar to the services provided at the Facilities within a ten (10) mile radius of any of the Facilities; provided, however, that this prohibition does not apply if the Authorized Borrower Representative delivers a feasibility study prepared by a Consultant not unacceptable to a Majority of the Owners of the Senior Bonds showing, for the first two Fiscal Years of operation of the proposed facility, a Debt Service Coverage Ratio of at least 1.20 for the Facility or Facilities located within a ten (10) mile radius of such proposed facility. The Authorized Borrower Representative is to cause each Manager to covenant in the Management Agreement similarly limit its activities.

**Granting of Mortgages: Further Assurances.** Concurrently with the execution and delivery of the Loan Agreement, the Borrowers executed and delivered to the Trustee a Mortgage on each of the Facilities, and each of the Borrowers covenanted and agreed that immediately upon the acquisition of title to any additional Facilities and concurrently with the commencement of construction of any Facility or any Capital Addition to any Facility, such Borrower will execute, acknowledge and deliver to the Trustee a Mortgage on such Facility (or in the case of new construction, a Mortgage on the site for the Facility or Capital Addition) together with all parking areas required by zoning or other local ordinances or regulations and all rights, easements, appurtenances and hereditaments necessary ingress or egress, utilities for the proper use and enjoyment of the Facilities.

#### **Capital Additions.**

The Borrowers are (i) to obtain all necessary approvals from any and all Regulatory Bodies requisite to the undertaking and completion of any Capital Addition; (ii) to cause any Capital Addition involving construction or acquisition and installation of equipment, including the 2005 Repairs and Replacements, to be constructed, completed, furnished and equipped with reasonable dispatch and pursuant to the estimated time schedule delivered pursuant to the Loan Agreement and substantially in accordance with the plans and specifications therefor, if any, filed with the Trustee; (iii) to cause the completion of the 2005 Repairs and Replacements by May 1, 2006; (iv) to enter into Construction Contracts providing for a fixed cost or guaranteed maximum price with respect to any Capital Addition in excess of \$750,000 involving construction prior to the commencement of construction thereof; (v) to designate an Architect prior to commencement of any Material Capital Addition in excess of \$750,000, and (vi) to assign all of their rights under such Construction Contracts and any amendments thereto to the Trustee as additional security for the Series 2005 Notes.

Moreover, each of the Borrowers has agreed as follows with respect to any Capital Addition:

(i) Prior to the commencement of construction of any Material Capital Addition, the Borrowers will file with the Trustee an estimate of the costs thereof and the estimated schedule for the completion of each phase of the Capital Addition in question and for the payment of such costs, which estimates and schedules for any Material Capital Addition in excess of \$750,000 are to be approved by the Architect. In addition, prior to the commencement of construction of any Material Capital Addition, the Borrowers will file with the Trustee copies of (A) the applicable Construction Contracts, and (B) the plans and specifications for the construction portion, if any, of such

Capital Addition prepared by an Architect and, in the case of a Material Capital Addition in excess of \$750,000, approved by the Architect.

(ii) Provided that no Event of Default has occurred and is continuing, changes relating to any Capital Addition, or to any Construction Contract, or any estimate, schedule or plans and specifications therefor, including any change orders under any Construction Contract, may be made at the discretion of the Borrowers; provided that such changes are filed with the Trustee and are in compliance with all applicable laws, acts, rules, regulations, orders and requirements as aforesaid; and provided further that prior to any such change becoming effective with respect to any Material Capital Addition, such change must be: (i) in writing, (ii) approved by the Architect if the Material Capital Addition is in excess of \$750,000 and such approval, in all cases, is to include a statement that the approval of any Regulatory Body required in connection with the change, if any, has been obtained; (iii) approved by an Authorized Officer of the Trustee; and (iv) filed with the Trustee. No changes causing construction costs to exceed the fixed cost or guaranteed maximum price for such Capital Addition in excess of \$750,000 may be made unless there has previously been filed with the Trustee satisfactory evidence of coverage of the increase in the price under the bonds, if any, required herein, and the above approval by the Architect and the approval of the Borrowers states that the total cost of the Capital Addition including the change can be paid from moneys available in the Capital Additions Fund. The Borrowers may make additional deposits in the Capital Additions Fund to enable the Architect and/or the Borrowers to give such certificate.

(iii) The costs of any Capital Addition involving construction or equipment replacement are to be paid from the Capital Additions Fund by the Trustee in accordance with the provisions of the Indenture. The Borrowers are to submit to the Trustee, with each requisition for payment from the Capital Additions Fund, a summary statement setting forth, with respect to each budget category of costs of any Capital Addition, the then current estimate of costs relating thereto and the total amount theretofore disbursed with respect to such budget category (exclusive of the amount then being requisitioned), and are to also submit such other certificates and supporting material as the Trustee may reasonably require.

(iv) The Borrowers are to enforce the Construction Contracts, and are will not do or refrain from doing any act whereby any surety on any bond may be released in whole or in part from any obligation assumed by such surety or from any agreement to be performed by such surety under the bond. In the event of any default on the part of any General Contractor, architect or other contractor or any subcontractor or supplier under any contract made by the Borrowers in connection with any Capital Addition or in the event of a breach of warranty with respect to any materials, workmanship or performance guaranty, the Borrowers will notify the Trustee and will proceed, either separately or in conjunction with others, to pursue such remedies against the architect, the General Contractor, contractor, subcontractor or supplier so in default and against each surety for the performance of such contract as it may deem advisable. The Borrowers are to advise the Trustee of the steps they intend to take in connection with any such default. If the Borrowers refuse to prosecute any action or proceeding or take any other action against such General Contractor, architect, contractor, subcontractor, supplier or surety, the Trustee may, but is not required to, proceed to take all such action in the name of the Borrowers or in its own name and the Borrowers have agreed to pay all expenses in connection therewith.

(v) In connection with any Material Capital Addition in excess of \$750,000 involving construction, the Borrowers have agreed to obtain or cause to be obtained by the General Contractor or, as applicable, its subcontractors for such Capital Addition a surety bond or bonds covering performance of contracts, including coverage for correction of defects developing within one year after completion and acceptance, and payment for labor and materials. The bond or bonds is to be executed by a responsible surety company or companies qualified to do business in the state where the Capital Addition is located and satisfactory to the Borrowers and the Insurance Consultant, is to name the Trustee as an obligee and is to be in amounts, in the aggregate, equal to not less than 100% of the amount of the contracts, including increases caused by change orders. Such bonds are to be delivered to the Trustee prior to the commencement of the construction in respect of which they are obtained, except that bonds covering increases under change orders may be delivered prior to the implementation of the change order. The net amounts recovered by the Borrowers on such bonds are to be deposited in the related account of the Capital Additions Fund.

**Financing Statements and Other Action to Protect Security Interests.** The Borrowers are to cause a financing statement relating to the Indenture to be filed, registered and recorded in such manner and at such places

as may be required by law to protect the security of the Owners and the right, title and interest of the Trustee as described in the Indenture. The Trustee is to file or cause to be filed Uniform Commercial Code continuation statements and in addition is to perform or cause to be performed such acts, and execute and cause to be executed any and all further instruments as may be required by law or as shall be reasonably requested by the Owners for such protection of the interests of the Owners, and, upon request, to furnish, or cause to be furnished, satisfactory evidence to any Owners requesting of recording, registering, filing and refiling of such instruments and of every additional instrument which is necessary to preserve the lien of the Indenture until the principal of and interest on the Series 2005 Notes secured hereby has been paid.

**Voluntary Bankruptcy.** The Borrowers have agreed not to enter into or file a voluntary petition in bankruptcy without the written consent of a Majority of the Owners of the Senior Bonds.

**Gross Revenues.** The Borrowers (or the Manager on behalf of the Borrowers) are to deposit, on a weekly basis, all Gross Revenues (subject to the rights of any Person having a prior lien on or security interest in any Accounts Receivable in accordance with the Loan Agreement) with the Trustee (except for the sum of \$30,000, which will be held by the Manager in one or more operating accounts established by the Manager for the Facilities), in accordance with the Indenture.

**Operating Reserve Fund; Replacement Reserve Fund.** The Borrowers may request withdrawals from the Operating Reserve Fund and the Replacement Reserve Fund pursuant to, and for the purposes provided in, the Indenture.

**Covenant to Purchase Additional Interest Rate Cap or Refinance the Series 2005A and 2005B Bonds.** The Borrowers have agreed, at the time that the Series 2005A Bonds are issued, to purchase an Interest Rate Cap with respect to the Series 2005A Note: (i) with a minimum term of five years, and (ii) which limits or caps the maximum interest rate exposure of the Borrowers with respect to the Series 2005A Note to 9.25% per annum. In addition, the Borrowers have agreed, on or prior to the expiration of the Initial Interest Rate Cap or any replacement Interest Rate Cap acquired pursuant to the Loan Agreement, unless waived in writing by the Authority, to either: (i) purchase or enter into a replacement Interest Rate Cap with respect to the Series 2005A Note, which provides that the projected Debt Service Coverage Ratio of the Borrowers for each year in which such replacement Interest Rate Cap is in effect is forecasted to be at least 1.25, as evidenced by a report of a Consultant delivered to the Authority and the Trustee; or (ii) refinance the Series 2005A Bonds and Series 2005B Bonds (a "Senior Bond Refinancing Transaction"). Any debt incurred to refinance the Series 2005A Bonds and the Series 2005B Bonds pursuant to such provisions of the Loan Agreement may be issued and secured on a basis superior to the Series 2005C Bonds in the same manner that the Series 2005A and Series 2005B Bonds were issued and secured on a basis superior to the Series 2005C Bonds, in accordance with the Indenture. The Borrowers obligation to provide an Interest Rate Cap with respect to the Series 2005A Note terminates as of the 10th anniversary of the date of the issuance of the Series 2005A Bonds.

**Senior Bond Refinancing Transaction.** If the Borrowers enter into a Senior Bond Refinancing Transaction, such Senior Bond Refinancing Transaction may be made on a basis superior to the Series 2005C Bonds, and at the time of such Senior Bond Refinancing Transaction, the Indenture, the Loan Agreement, all Financing Documents and any other related documents shall be deemed to be modified to (i) eliminate all references to the Series 2005A Bonds and Series 2005B Bonds; and (ii) to evidence the fact that the Series 2005C Bonds are in all respects subordinate and junior to the Senior Bond Refinancing Transaction (and all related Senior Bond Refinancing Transaction loans, notes, bonds, securities or other document) with the same force and effect as though the Senior Bond Refinancing Transaction had occurred prior to the issuance of the Series 2005C Bonds; and (iii) to reflect that all liens, security interests and mortgages which are granted in connection with a Senior Bond Refinancing Transaction are senior and superior in all respects to any and all liens, security interests, mortgages, pledges and other collateral securing the Series 2005C Bonds.

**Events of Default.** Any one or more of the following events constitutes an event of default under the Loan Agreement:

(a) failure to pay when due and payable any installment of interest or principal on the indebtedness evidenced thereby, or in the payment of any other sum which is payable under the Loan Agreement, as and when the



same shall become due and payable; provided, however, that as long as any Senior Bonds or any Additional Bonds are Outstanding, the failure to pay any interest or principal with respect to the Subordinate Bonds or to make a transfer in connection therewith to the Bond Fund because of insufficient revenues shall not be an Event of Default thereunder;

(b) the failure of any of the Borrowers to perform any other covenant, condition or provision of the Loan Agreement (other than the Debt Service Coverage Ratio, the Liquidity Covenant and the Trade Payables Covenant), the Indenture, the Mortgages, any Series 2005 Notes or any Related Financing Document and to remedy it within 30 days after written notice of such failure from the Trustee to each Borrower the giving of which notice shall be at the discretion of the Trustee unless the Trustee is requested in writing to do so by the Owners of at least 25 percent in aggregate principal amount of all Outstanding Series 2005 Bonds, in which event such notice shall be given; provided, however, that if such observance requires work to be done, actions to be taken, or conditions to be remedied, which by their nature cannot reasonably be done, taken or remedied within such 30-day period, no Event of Default shall be deemed to have occurred or existed if, and so long as, the defaulting Borrower shall commence such observance for performance within such 30-day period and is to diligently and continuously prosecute the same to completion; or

(c) if any warranty, representation, certification, financial statement or other information made or furnished to induce the Authority to issue the Series 2005 Bonds or to undertake the Series 2005 Project, or made or furnished, at any time, in or pursuant to the terms of any Financing Document or otherwise by the Borrowers, or by any person who guarantees or who is liable for any obligations of the Borrowers hereunder shall prove to have been false or misleading in any material respect when made; or

(d) any representation or warranty made by any Borrower in any statement or certificate furnished in connection with the sale of any of the Series 2005 Bonds or pursuant to the Loan Agreement, the Indenture or the Mortgages is untrue when made in any material respect; or

(e) Reserved, or

(f) the occurrence of an Event of Default under the Indenture or the Mortgages; or

(g) a default or defaults shall occur in the payment of the principal of or interest on any Indebtedness of any Borrower (other than Series 2005 Notes), or if a default or defaults shall occur under any mortgage, agreement or other instrument under or pursuant to which Indebtedness of a Borrower (other than Series 2005 Notes) is issued with the result that such Indebtedness becomes or is capable of becoming due and payable prior to its expressed maturity; provided, such defaults shall not constitute an Event of Default thereunder unless the aggregate principal amount of such Indebtedness becoming so due and payable prior to expressed maturity exceed the greater of \$100,000 or 1% of the aggregate Book Value of the Property of all of the Borrowers, taken as a whole, as shown on the latest available audited financial statement of the Borrowers; or

(h) any judgment, writ or warrant of attachment or of any similar process shall be entered or filed against any Borrower or its Property and remains unvacated, unpaid, unbonded or unstayed for 90 days; provided, however, that no such event shall constitute an Event of Default within the meaning of this subparagraph unless the aggregate amount of such judgments, writs, warrants of attachment or similar process, so unvacated, unpaid, unbonded, unstayed or uncontested, exceeds the greater of \$100,000 or 1% of the aggregate Book Value of the Property of all of the Borrowers, taken as a whole, as shown on the latest available audited financial statement of the Borrowers; or

(i) any or all of the Borrowers have applied for or consented to the appointment of a receiver, trustee or liquidator of all or a substantial part of its assets; admitted in writing the inability to pay its debts as they mature; made a general assignment for the benefit of creditors; been the subject of an order for relief under the federal Bankruptcy Code, or been adjudicated a bankrupt, or filed a petition or an answer seeking reorganization, liquidation or an arrangement with creditors or taken advantage of any insolvency law, or submitted an answer admitting the material allegations of a petition in bankruptcy, reorganization, liquidation or insolvency proceeding; or an order, judgment or decree has been entered, without the application, approval or consent of any of all of the Borrowers, by any Court of competent jurisdiction approving a petition seeking reorganization of any of all of the Borrowers or

appointing a receiver, trustee or liquidator of a substantial part of its assets and such order, judgment or decree shall continue unstayed and in effect for any period of thirty (30) consecutive days; or filed a voluntary petition in bankruptcy or failed to remove an involuntary petition in bankruptcy filed against it within thirty (30) days of the filing of such involuntary petition; or

(j) because of the acts or omissions of either a Borrower or the Manager, there has been a notice from the appropriate governmental or regulatory agency that the operating license for any of the Facilities or any substantial portion thereof will be revoked for reasons within the reasonable control of either a Borrower or the Manager and such notice is not rescinded, vacated or stayed by action of either a Borrower or the Manager (or otherwise) within 60 days of its issuance or such longer period of time during which such Facility may continue to operate as may be permitted by applicable law or approved by such appropriate governmental or regulatory agency; or

(k) The failure by the Borrowers to comply with the Debt Service Coverage Ratio, the Liquidity Covenant or the Trades Payable Covenant as of two consecutive Quarterly Evaluation Dates or the Debt Service Coverage Ratio as of any Annual Evaluation Date.

**Acceleration.** Upon the occurrence and continuance of an Event of Default under the Loan Agreement, the Trustee, may, and if requested by the Owners of not less than 25% in aggregate principal amount of all Senior 2005 Bonds then Outstanding, the Trustee, as assignee of the Authority, is to, by notice in writing to each Borrower declare the principal of all Series 2005 Notes, together with a premium equal to the Acceleration Premium on the Series 2005 Bonds, to be due and payable immediately, and upon any such declaration the same, with interest thereon to the date of declaration, shall be immediately due and payable; provided, however, that if, at any time after the principal of all Series 2005 Notes have been declared due and payable, and before any judgment or decree for the payment of the moneys due has been obtained or entered as hereinafter provided, the Borrowers pay or deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all such Series 2005 Notes and principal and premium, if any, of all such Series 2005 Notes that have become due otherwise than by acceleration (with interest on overdue installments of interest, to the extent permitted by law, and on such principal and premium, if any, at the rate borne by such Series 2005 Notes to the date of such payment or deposit) and the fees and expenses of the Trustee and the Authority, and any and all Events of Default under the Loan Agreement have been cured or waived by the Owners of a majority in aggregate principal amount of all Senior Bonds then Outstanding, by written notice to each Borrower and to the Trustee, then the Trustee, as assignee of the Authority, may waive all Events of Default and rescind and annul such declaration and its consequences.

**Remedies.** Upon the occurrence of an Event of Default under the Loan Agreement, and at any time thereafter during the continuation of such Event of Default, the Trustee, as assignee of the Authority, may exercise any right or remedy available to it in law or equity to enforce its rights to payment of its expenses and indemnification and the Trustee, as assignee of the Authority, may exercise any right or remedy available to it in law or equity to enforce all other rights under the Loan Agreement and the Trustee, as assignee of the Authority, may take one or more of the following remedial steps provided that any and all remedies relating to a default in the payment of principal, premium, if any, or interest on the Series 2005 Notes are to be governed by the Indenture:

(a) declare the entire principal amount of the indebtedness evidenced by the Loan Agreement and any other sums which the Borrowers are obligated to pay thereunder, but only if the principal and interest on the Series 2005 Notes have been accelerated, to be due and payable forthwith;

(b) take any action at law or in equity to collect the payments then due and thereafter to become due hereunder or to enforce performance and observance of any obligation, agreement or covenant of the Borrowers under the Loan Agreement;

(c) exercise all rights and remedies provided for in the Indenture;

(d) after prior written notice to the Borrowers, unless the giving of such notice would prejudice the Trustee (as determined in its sole discretion), perform for the account of the Borrowers any covenant in the performance of which the Borrowers are in default or make any payment for which the Borrowers are in default;

- (e) exercise any other remedy available at law or in equity.

## SUMMARY OF CERTAIN PROVISIONS OF MORTGAGES

*The following, in addition to information provided elsewhere in this Official Statement, summarizes certain terms and provisions of the each of the Mortgages. Such summary does not purport to be comprehensive, and reference should be made to the each of the Mortgages for more complete information. Copies of each of the Mortgages are available from the Trustee upon request.*

**Grant in Mortgages.** In order to secure the performance of all of the Borrowers' covenants and agreements contained in the Loan Agreement and the Borrowers' obligations with respect to Series 2005 Notes and the Financing Documents (collectively, the "Secured Obligations") and all future modifications, extensions and renewals thereof, the Borrowers have granted, bargained and sold, mortgaged, warranted, conveyed, aliened, enfeoffed, released, confirmed assigned, transferred, granted a security interest in, and set-over unto the Trustee, its successors and assigns, all of the Borrowers' right, title and interest, now owned or hereafter acquired, in and to the premises upon which the Facilities are located (the "Mortgaged Premises");

TOGETHER with the tenements, hereditaments, appurtenances and all the estates and rights of the Borrowers in and to the Mortgaged Premises;

TOGETHER with all right, title and interest of the Borrowers in and to all streets, roads and public places, opened or proposed, adjoining the Mortgaged Premises, and all easements and rights of way, public or private, now or hereafter used in connection with the Mortgaged Premises;

TOGETHER with all right, title and interest of the Borrowers, now owned or hereafter acquired, in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining the Mortgaged Premises to the extent of the interest of the Borrowers therein, now or hereafter acquired;

TOGETHER with all right, title and interest of the Borrowers, now owned or hereafter acquired, in and to any and all sidewalks and alleys, and all strips and gores of land, adjacent to or used in connection with the Mortgaged Premises;

TOGETHER with all right, title and interest of the Borrowers in and to all buildings, structures and improvements of every kind and description now or hereafter erected or placed on the Mortgaged Premises, including the Facilities;

TOGETHER with all right, title and interest of the Borrowers in and to all building materials, supplies, equipment, appliances, fixtures, machinery and other chattels now or at any time hereafter, affixed or attached to, placed upon or used in any way in connection with, or delivered or being upon the Mortgaged Premises and intended to be incorporated or installed in or on the Mortgaged Premises;

TOGETHER with all right, title and interest of the Borrowers in and to Construction Contracts and other agreements between the Borrowers and third parties for the construction of any Capital Additions to the Mortgaged Premises as required in the Loan Agreement;

TOGETHER with all right, title and interest of the Borrowers, now owned or hereafter acquired, in and to (a) all fittings, appliances, apparatus, equipment, machinery, furniture, fixtures, chattels, building materials and other articles of tangible personal property of any kind or nature, together with all replacements thereof, substitutions therefor and additions and accessions thereto, now, or at any time hereafter, affixed or attached to or placed upon, or used in any way in connection with the use, enjoyment, operation, maintenance and occupancy of the Mortgaged Property; (b) all inventory of the Borrowers wherever located; (c) all other goods of the Borrowers; (d) all receipts, revenues, rentals, income and other moneys received or receivable by or on behalf of the Borrowers from any source, whether or not in connection with the ownership or the operation of all or any part of the Mortgaged Property, including, without limitation, all fees paid or payable on behalf of patients or residents and all other operating an non-operating revenues, and all rights to receive the same whether in the form of accounts, Accounts

Receivable, contract rights, chattel paper, instruments, general intangibles and investment property of the Borrowers and the proceeds thereof, the proceeds of any insurance coverages on and condemnation awards in respect of the Mortgaged Property or any gain on the sale or other Borrowers disposition of property; all of the foregoing, whether now existing or hereafter coming into existence and whether now owned or held or hereafter acquired by the Borrowers; and including all gifts, grants, bequests, donations and contributions, except those heretofore or hereafter made, designated at the time of making by the donor or maker as being for certain specified purposes inconsistent with the application thereof to the payment due from the Borrowers under the Loan Agreement and except any income derived therefrom to the extent required by such designation or restriction; (e) all other personal property and all rights and things of value of every kind and nature, tangible or intangible, absolute or contingent, legal or equitable, and regardless of whether or not the provisions of the Uniform Commercial Code are applicable thereto, including without limitation: all patient, lessee or other customer lists, books and records, ledger and account cards, computer tapes and programs, software, disks, printouts and records, whether now in existence or hereafter created, of the Borrowers;

A. all rights (including without limitation rights to payment) of the Borrowers under governmental contracts (including without limitation to Medicare and Medicaid agreements), to the extent the same may be lawfully assigned or a security interest therein lawfully granted;

B. any Management Agreement now existing or hereafter arising, as the same may be amended from time to time, including without limitation all rights and privileges thereunder;

C. all rights and claims in and to any funds or accounts established under the Loan Agreement, and all securities, monies and other property held therein;

D. all certificates of need, licenses, permits, approvals, authorizations, consents, orders or rights, obtained or hereafter obtained, including without limitation those benefiting or permitting the use or operation of the Facilities or any part thereof;

E. all liens, security interests, mortgages, security, warranties, guarantees, sureties, payment bonds, performance bonds, insurance policies, maintenance, repair or replacement agreements, and other contractual obligations of any contractor, subcontractor, surety, guarantor, manufacturer, dealer, laborer supplier or materialman, with respect to the Facilities;

F. all causes of action, goodwill, trade names, franchises, tax refund claims, rights and claims against carriers and shippers and all rights to indemnification of the Borrowers;

G. all bank and other accounts, deposits and credit balances of the Borrowers;

H. all plans, specifications and drawings relating to the Facilities;

I. the Working Capital Loan Agreement among the Borrowers and Medical Rehabilitation Center, Inc., as the same may be amended from time to time, including without limitation all rights and privileges of the Borrowers thereunder;

J. the Interest Rate Cap and any replacement therefor; and

K. all claims, rights, powers or privileges and remedies relating to the foregoing or arising in connection therewith including, without limitation, all rights to make determinations, to exercise any election (including, but not limited to, election of remedies) or option or to give or receive any notice, consent, waiver or approval.

TOGETHER with full power and authority to demand, receive, enforce or execute any checks, or other instruments or orders, to file any claims and to take any action which may be necessary or advisable in connection with any of the foregoing, EXCEPTING AND EXCLUDING only gifts, grants, bequests, donations and contributions made to the Borrowers, designated at the time of making thereof by the donor or maker as being for

certain specified purposes inconsistent with the application thereof to the payment of amounts due under the Loan Agreement or the Mortgages or not subject to pledge, and any income derived therefrom to the extent required by such designation or restriction (all property described in clauses (a) through (e), and all proceeds thereof, being hereinafter referred to collectively as the “Personal Property” and all property described in clause (d) being hereinafter referred to collectively as “Gross Revenues”).

TOGETHER with the reversions, remainders, easements, rents, issues and profits arising or issuing from the Mortgaged Premises, and/or the buildings, structures and improvements thereon including, but not limited to, the rents, issues and profits arising or issuing from all insurance policies, sale agreements, licenses, options, leases and subleases now or hereafter entered into covering any part of the Mortgaged Premises and/or the buildings, structures and improvements thereon, all of which insurance policies, sale agreements licenses, options, leases, subleases, rents, issues and profits are hereby assigned and shall be caused to be assigned to the Trustee by the Borrowers;

TOGETHER with all right, title and interest of the Borrowers in and to any leases with respect to the Facilities;

TOGETHER with any and all awards, damages, payments and other compensation, and any and all claims therefor, and rights thereto, which may result from taking or injury by virtue of the exercise of the power of eminent domain of, or to, or any damage, injury or destruction in any manner caused to, the Mortgaged Premises and/or buildings, structures and improvements thereon, or any part thereof, or from any change of grade or vacation of any street abutting thereon, all of which awards, damages, payments, compensation, claim and rights are hereby assigned, transferred and set over to the Trustee to the fullest extent that the Borrowers may under the law so do;

TOGETHER with all products and proceeds of any and all of the foregoing real and personal property;

ALL of which property, and rights therein, hereinabove described or mentioned being hereinafter collectively called the “Mortgaged Property.”

**Future Obligations and Advances Secured; Series Mortgage.** The Mortgages secure not only the principal indebtedness evidenced by the Series 2005 Notes, but also future obligations and advances to Borrowers by the Trustee up to the amount of \$50,000,000.00, whether made as an obligation, made at the option of Borrowers, made after a reduction to a zero (0) or other balance, or made otherwise to the same extent as if the future obligations and advances were made on the date of execution of the Mortgages. The Mortgages also secure, in addition to the maximum principal amount specified therein, interest, service charges and any disbursements made for the payment of taxes assessments, maintenance, care, protection, or insurance on the Mortgaged Property, with interest on such disbursements. Each of the Mortgages constitutes a series mortgage as defined in Indiana Code § 32-29-10 and, for purposes of said statute, also constitute the original security instrument evidencing such series mortgage. The final maturity date of such series mortgage, the same being the maturity date of the last to mature of the Series 2005 Notes secured thereby, is January 1, 2036. The Mortgages shall also secure any Related Notes issued under and pursuant to the Indenture as evidenced by one or more supplemental instruments subsequently recorded.

**Permitted Exceptions.** Each of the Mortgages is subject to the following exceptions (collectively, the “Permitted Exceptions”):

- (1) the Mortgages and liens or encumbrances arising hereunder;
- (2) liens for ad valorem taxes; special assessments and governmental charges not then delinquent, and any tax, assessment or judgment liens so long as the validity thereof is being contested by the Borrowers in good faith and by appropriate legal proceedings and execution or sale of the property in question is stayed during the pendency of such contest, and provided that the Borrowers have delivered to the Trustee the bond required under, and shall have otherwise complied with the provisions of the Loan Agreement;

(3) utility, access and other easements and rights-of-way, encroachments and exceptions which are listed in Part B to the title insurance commitments of Chicago Title Insurance Corporation delivered to the Trustee; and

(4) Permitted Encumbrances which are prior to the lien of the Mortgages, including but limited to the security interest in Accounts Receivable created in favor of a working capital lender to the extent permitted by the Loan Agreement.

**Security Agreement.** Each of the Mortgages constitutes a security agreement under the Uniform Commercial Code and creates a security interest in the Personal Property and all that property (and the proceeds and products thereof) included in the Mortgaged Property which might otherwise be deemed "personal property". The Borrowers have agreed not change their name or principal place of business without giving the Trustee at least thirty days prior written notice thereof; which notice is to be accompanied by new financing statements executed by the Borrowers in the same form as the financing statements delivered to the Trustee on the date hereof except for the change of name or change of address. Moreover, except as otherwise permitted under the Loan Agreement or under the Mortgages, the Borrowers have represented and warranted that all of the Personal Property is and will be owned by Borrowers free from any prior conditional sales, chattel mortgages, security interests, liens or encumbrances and is intended to be subject to the lien of the Mortgages as if part of the real estate. In addition, if any such Personal Property is or shall be subject to a conditional bill of sale, chattel mortgage or security interest other than that created hereby, then, in the event of any default hereunder, all the right, title and interest of Borrowers in and to any such instrument and all deposits made thereunder have been assigned to the Trustee, together with the benefit of any payments now or hereafter made thereon.

**Fixture Filing.** Part of the Mortgaged Property is or may become fixtures, and it is intended that, as to such fixtures, the Mortgages shall be effective as a financing statement filed as a fixture filing from the date of the filing of the Mortgages for record with the Recorder of the counties in which the Mortgaged Property is located.

**Collection of Gross Revenues.** The Borrowers have agreed to collect, or cause to be collected, with all due dispatch, all Gross Revenues (but only to the extent permitted by law), and to deposit all such Gross Revenues, or cause all such Gross Revenues to be deposited, in the Revenue Fund. Upon the occurrence of any Event of Default under the Mortgage, the Trustee has been authorized in the Mortgages to collect all of the Gross Revenues (but only to the extent permitted by law).

**Assignment of Rents.** The Borrowers have conveyed, transferred, assigned and set over unto Trustee all of Borrowers' right, title, interest and privilege in, to and under all rents, income, profits and other sums due or to become due in connection with any leases now or hereafter affecting the Mortgaged Property, together with all security deposits, payments in lieu of rent, and guaranties of payment or performance of any tenant's obligations under such leases.

**Covenants As To Taxes And Assessments.** The Borrowers have agreed to cause to be paid and discharged all taxes, assessments, water and sewer rents and charges and all license or permit fees, levies, and governmental charges, payments in lieu of any of the foregoing, general or special, ordinary or extraordinary, foreseen or unforeseen, of any kind and nature whatsoever, which are or may have been, or may hereafter be, charged, assessed, levied, confirmed or imposed upon or against the Mortgaged Property, or any part thereof, by any lawful authority, or which may become a lien thereon, all in accordance with the Loan Agreement. Moreover, the Borrowers have covenanted and agreed to pay to the Trustee all payments provided under the Secured Obligations, and the principal and interest on every other obligation secured by the Mortgage without deduction or credit for any amount for taxes assessed or to be assessed against the Mortgaged Property.

**Insurance.** The Borrowers have covenanted and agreed to insure the Mortgaged Property and provide all other insurance coverages required under the Loan Agreement, all at the Borrowers' cost and expense. In the event of any loss or damage to the Mortgaged Property, the Borrowers have agreed to give immediate written notice thereof to the Trustee, and any claims arising from such loss or damage are to be adjusted and the proceeds applied as provided in the Loan Agreement. If the Trustee acquires title to the Mortgaged Property either by virtue of a deed in lieu of foreclosure or a judicial sale thereof pursuant to proceedings under the Loan Agreement or the Mortgages, then all of the Borrowers' estate, right, title and interest in and to all such policies, including unearned premiums

thereon and the proceeds thereof, are to vest in the Trustee. If the Borrowers shall fail to procure, pay for and deliver to the Trustee any policy or policies of insurance and/or renewals thereof as provided in the Mortgages, the Trustee may at its option, but shall be under no obligation to do so, effect such insurance and pay the premiums therefor, and the Borrowers have agreed to repay to the Trustee on demand any premiums so paid, with interest thereon at the rate set forth in the Mortgage, and the same shall be secured by the Mortgages.

### **General Representations and Covenants of the Borrowers**

**Payment of Secured Obligations.** The Borrowers have agreed to pay to the Trustee the entire unpaid principal indebtedness of the Secured Obligations and the other amounts required to be paid pursuant thereto, including all sums now or hereafter due the Trustee under the terms of the Mortgages, together with all interest thereon, punctually as and when the same becomes due by the terms thereof, time being of the essence.

**Title of Borrowers.** The Borrowers have warranted and covenanted that they are the owners in fee simple of the Mortgaged Premises and have good and marketable title to the Mortgaged Property, are lawfully authorized to mortgage and encumber the Mortgaged Property, and have not created and will not create any liens or encumbrances on the Mortgaged Property other than the Mortgages, the Permitted Exceptions or as otherwise permitted under the Loan Agreement. The Borrowers have also covenanted and warranted to defend the title to the Mortgaged Property unto the Trustee against all persons and all claims of every kind or nature other than the Permitted Exceptions.

**Alterations, Additions. Removals.** Except as provided in the Loan Agreement and except for alterations or additions made in the normal course of operations of the Mortgaged Property, the Borrowers have agreed not make any structural alterations or any additions to the Mortgaged Property or cause or permit any building, structure or improvement or other property now or hereafter covered by the lien of the Mortgages and comprising part of the Mortgaged Property to be removed, or demolished in whole or in part, or any Personal Property comprising part of the Mortgaged Property to be removed, severed or destroyed. All alterations and additions are to become part of the Mortgaged Property subject to the lien of the Mortgages. The Borrowers have agreed not abandon or cause or permit any waste to the Mortgaged Property.

**Inspection and Repairs by Trustee.** The Borrowers have agreed to permit the Trustee and the Trustee's representatives to enter the Mortgaged Property at reasonable times to inspect the same. Such right of access includes, without limitation, the right to enter upon the Mortgaged Property to conduct such tests, analyses, environmental assessments, inspections and borings as the Trustee may deem advisable, in its sole discretion. In case of any breach or default of this provision, the Trustee may, at its option enter the Mortgaged Property to protect, restore or repair any part thereof, but the Trustee shall be under no obligation to do so. The Borrowers have agreed repay to the Trustee on demand any sums paid by the Trustee to protect, restore or repair any part of the Mortgaged Property, and the same shall be secured by the Mortgages.

**No Transfer of Property by Borrowers.** The Borrowers have agreed not by deed, mortgage, pledge, lease, easement or other instrument, grant, mortgage, pledge, convey, assign, devise or otherwise transfer all or any part of the Mortgaged Property or any interest therein, directly or indirectly, other than a conveyance, assignment or transfer permitted under the terms of the Loan Agreement, and the Borrowers have agreed not to suffer or permit such conveyance, assignment or transfer by execution sale or operation of law or otherwise.

**No Set-Offs.** The Borrowers have represented to the Trustee that they have no knowledge of any set-offs, recoupments, counterclaims or defenses to the principal indebtedness secured by the Mortgages, or to any part thereof or the interest thereon, either at law or in equity. The Borrowers, within three (3) days upon written request by the Trustee, have agreed to furnish a duly acknowledged written statement in form satisfactory to the Trustee stating either that the Borrowers knows of no set-offs, recoupments or defenses existing against the Mortgages indebtedness or, if such set-offs, recoupments, counterclaims or defenses are alleged to exist, the nature and extent thereof.

**Payment of Costs and Expenses of Trustee.** The Borrowers have agreed promptly to pay upon demand, with interest thereon at the Trustee's prime rate plus 2% (the "Default Rate"), all expenses and costs incurred by the Trustee, including reasonable attorneys' fees and expenses in connection with any action, proceeding, litigation or claim instituted or asserted by or against the Trustee or in which the Trustee becomes engaged, wherein it becomes

necessary in the opinion of the Trustee to defend or uphold the lien of the Mortgages, or the validity or effectiveness of any assignment or any claim, award, payment, property damage insurance policy or any other right or property conveyed, encumbered or assigned by the Borrowers to the Trustee thereunder, or the priority of any of the same, and all such expenses and costs, and interest thereon, may be added to and become part of the principal indebtedness of the Borrowers hereunder, and be secured in all respects as if part of the Secured Obligations.

**Change in Tax Status of Mortgage.** In the event of the passage after the date of the Mortgages of any law of the State of Indiana or any other governmental entity, changing in any way the laws now in force for the taxation of mortgages, or debts secured thereby, for state or local purposes, or the manner of the operation of any such taxes, so as to affect the interest of the Trustee, then and in such event, the Borrowers have agreed bear and pay the full amount of such taxes, provided that if for any reason payment by the Borrowers of any such new or additional taxes would be unlawful or if the payment thereof would constitute usury or render the loan or indebtedness secured hereby wholly or partially usurious under any of the terms or provisions of the Secured Obligations, or otherwise, the Trustee may, at the Trustee's option, declare the whole sum secured by the Mortgages, with interest thereon, to be due and payable one hundred twenty (120) days after notice thereof, or the Trustee may, at the Trustee's option, pay that amount or portion of such taxes as renders the loan or indebtedness secured hereby unlawful or usurious, in which event the Borrowers shall concurrently therewith pay the remaining lawful and nonusurious portion or balance of said taxes.

**No Security Interests in Personal Property and Gross Revenues.** Other than as permitted under the Loan Agreement, the Borrowers have agreed not to create or suffer to be created any security interest under the Indiana Uniform Commercial Code or other encumbrance in favor of any party other than the Trustee, or create or suffer any reservation of title by any such other party, with respect to any of the Mortgaged Property. The Borrowers have also agreed deliver to the Trustee on demand any contracts, bills of sale, statements, receipted vouchers or agreements under which the Borrowers claims title to any Personal Property incorporated in the improvements or subject to the lien of the Mortgages.

**Further Action By Borrowers.** The Borrowers have agreed at their expense promptly upon request of the Trustee to: (a) do all acts and things, including but not limited to the execution of any further assurances deemed necessary by the Trustee to establish, confirm, maintain and continue the lien created and intended to be created by the Mortgage, all assignments made or intended to be made pursuant thereto and all other rights and benefits conferred or intended to be conferred on the Trustee thereby, and the Borrowers are to pay all costs incurred by the Trustee in connection therewith, including all filing and recording costs, cost of searches and reasonable attorneys' fees incurred by the Trustee and (b) furnish the Trustee with a written certification signed by the Borrowers, or an officer of the Borrowers on the Borrowers' behalf as to all then existing leases for space covering any part of the Mortgaged Property, the names of the tenants, the rents payable thereunder and the dates to which such rents are paid, together with executed copies of all such leases.

**Protection of Mortgage Lien.** The Borrowers have agreed promptly to perform and observe, or cause to be performed and observed, all of the terms, covenants and conditions of all instruments of record affecting the Mortgaged Property, the non-compliance with which may affect the security of the Mortgages, or which may impose any duty or obligation upon the Borrowers or any lessee or sublessee or other occupant of the Mortgaged Property or any part thereof, non-compliance with which may affect the security of the Mortgages, and the Borrowers are to do or cause to be done all things necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and rights in favor of or constituting any portion of the Mortgaged Property.

**Environmental Matters.** The Borrowers have represented and warranted that to the best of their knowledge and also based upon its review of the environmental reports dated August 2005 of Tetra Tech, Inc. pertaining to the Mortgaged Property (the "Environmental Reports"):

A. except as set forth in the Environmental Reports, the Mortgaged Property has been and continues to be in substantial compliance with all material laws, rules and regulations applicable to any portion of the Mortgaged Property governing protection of the public health and the environment and that no notice has been received by the Borrowers from any governmental authority or any person or entity claiming any violation of any federal, state or local statute, ordinance, rule, regulation or other requirement of law, or demanding remediation of or



payment or contribution for any environmental condition, or payment or contribution for any environmental condition, contamination or any damages, costs or fees attributable thereto;

B. no summons, citation, directive complaint, notice of violation, investigation, administrative order, consent order, lien, superlien or agreement, litigation or settlement with respect to any Hazardous Substance of any kind located in, on, about, under or from all or any portion of the Mortgaged Property or that is attributable from all or any portion of any Mortgaged Property or that is attributable to the Borrowers at any location or in any jurisdiction, exists, is pending, or to the best knowledge of the Borrowers, is proposed, threatened or anticipated;

C. except as set forth in the Environmental Reports, the Mortgaged Property has never been used by the Borrowers or by previous owners, lessees, operators and/or any other persons or entities to refine, produce, store, handle, transfer, process, treat, transport, dispose of or otherwise deposit Hazardous Substances, including but not limited to asbestos in any form or condition, PCBs and urea-formaldehyde; (ii) no Hazardous Substances are present in, on, about or under any portion of the Mortgaged Property, and (iii) no above ground or underground storage tanks are or have ever been located on any portion of the Mortgaged Property except for propane tanks used for generators;

D. there is no actual or threatened release of any Hazardous Substance or any other environmental condition in, on, about, under or from any portion of the Mortgaged Property, or any other property that may: (i) restrict the development or any use of any portion of the Mortgaged Property; (ii) increase the cost of operating or maintaining any portion of the Mortgaged Property; (iii) present any risk to any persons or things on or off of any portion of the Mortgaged Property; or (iv) diminish or impair the value or marketability of any portion of the Mortgaged Property;

E. none of the Mortgaged Property is "property" as defined at Indiana Code § 13-11-2-174 subject to the Indiana Responsible Property Transfer Law (Indiana Code § 13-25-3); and

In addition to and without limiting the scope of any covenants contained elsewhere in the Mortgages, each of the Borrowers has covenanted that:

A. it will not treat, discharge, spill, dispense, dispose, leak, pump, emit, pour, empty, dump or otherwise release or create a threat of release of any Hazardous Substance or any waste of any kind in, on or under any portion of the Mortgaged Property and it will not cause, suffer, allow or permit any other person or entity to do so except for such substances as are typically used in connection with the operation of a senior living facility/nursery, residential care and independent living facility, which shall in any event be handled in accordance with applicable laws;

B. it will not refine, produce, handle, transfer, process, treat, transport, use, generate, hold or store any Hazardous Substance or any waste of any kind, except that: (i) construction materials, office equipment, other office furnishings, cleaning solutions and other maintenance materials that are or contain Hazardous Substances may be used, held or stored on any portion of the Mortgaged Property, provided such use, holding or storage is normally incident to and reasonably necessary for the construction, operation, or maintenance of any portion of the Mortgaged Property as a skilled or intermediate nursing facility and is in accordance with all applicable law except that no asbestos, asbestos-containing materials or PCBs shall be brought onto any portion of the Mortgaged Property; (ii) reasonable quantities of Hazardous Substances may be used, stored or held on any portion of the Mortgaged Property if such activity is incident to the Borrowers' customary use of such substances on any portion of the Mortgaged Property, provided such substances are properly packaged, labeled, stored, held and used in a safe manner in accordance with all applicable law, (iii) reasonable quantities of municipal waste may be generated by the Borrowers on any portion of the Mortgaged Property and such waste may be stored temporarily on any portion of the Mortgaged Property, provided such activity is performed in compliance with all applicable law and provided all such waste is removed within a reasonable amount of time after it is generated; and (iv) reasonable quantities of infectious waste, as defined in Indiana Code § 16-41-16 and Indiana Administrative Code Title 410, § 1-3-10, may be generated and stored on any portion of the Mortgaged Property, so long as their storage, disposal and treatment are performed in accordance with all applicable laws, rules and regulations;

C. it will provide written notice to the Trustee within one week of the Borrowers' actual knowledge of any and all discharges, spills, disposals or other releases on or from any portion of the Mortgaged Property to the environment of any Hazardous Substance that are not completely cleaned up and removed within three (3) business days of such release;

D. except for water or oxygen tanks, it will give written notice to the Trustee of any installation of any type of storage tank, whether it is under or above-ground, at any portion of the Mortgaged Property, and will comply with all applicable laws and regulations concerning installation of any type of storage tank, including water tanks;

E. it will, within five (5) business days of receipt notify the Trustee and provide the Trustee with copies of any written notice of violation from any government agency, notice of filing of any administrative, civil or criminal action by any person or entity, notice of any investigation or request, other than routine administrative requests for information or related materials by any government agency, relative to any environmental condition in, or, about, under or from any portion of the Mortgaged Property;

F. if there is a spill, discharge, disposal, or other release or the threat thereof, of a Hazardous Substance from any portion of the Mortgaged Property to the environment, the Borrowers will: (i) promptly take all measures necessary to contain and remove discharges, spills, disposals or other releases of any Hazardous Substance to the environment and remedy and mitigate any and all threats to health, property and the environment in a manner consistent with all applicable law; and (ii) provide the Trustee, within thirty days after demand by the Trustee, with a bond, letter of credit, or similar financial assurance evidencing to the Trustee's satisfaction that the necessary funds are available to pay the costs of investigating, removing, treating and disposing of Hazardous Substances, wastes of any kind, or material contaminated by such Hazardous Substances or wastes and discharging any assessments that are or may be imposed on the Borrowers and/or any portion of the Mortgaged Property as a result thereof;

G. it will include or have included in any contracts and agreements of any kind entered into or renewed after the date of execution and delivery of the Mortgages for the operation or management or occupancy of or the performing of any activities (other than routine maintenance service and other insubstantial activities) at any portion of the Mortgaged Property substantially the same limitations on the activities of such other contracting party as are placed on the Borrowers in these provisions; and

H. it will permit the Trustee and its authorized representatives to enter and inspect and assess the Mortgaged Property at reasonable times to determine the Borrowers' compliance with the above conditions.

**Indemnification Regarding Environmental Conditions.** The Borrowers have agreed, to the fullest extent permitted by law, indemnify, defend and hold harmless the Trustee, its directors, officers, shareholders, employees, attorneys and agents, and its heirs, successors, personal representatives, and assigns, from and against any and all suits, actions, legal or administrative proceedings, orders, claims, demands, damages, losses, costs, past, present and future liabilities, judgments, interest, expenses, and reasonable attorney's fees actually incurred (including any such expenses and attorney's fees incurred in enforcing this. indemnity), including without limiting generality of the foregoing, consultants' fees, environmental study, investigation and cleanup costs, natural resources damages, fines, penalties and damages to persons, personal property, real property and business enterprises, suffered, incurred or threatened, resulting from or in any way connected with the presence of or release or threat of release of any Hazardous Substances of any kind in, on, under, about, or from any portion of the Mortgaged Property, the environmental condition of any portion of the Mortgaged Property, or the existence of any environmental hazard on any portion of the Mortgaged Property, at any time, regardless of whether caused by or within the control of the Trustee or the Borrowers, or resulting from or in any way connected with the breach of the Borrowers' representations, warranties or covenants regarding environmental matters; provided, however, that the Borrowers shall not be required to indemnify the Trustee for any costs, damages or liabilities to the extent, but only to the extent, resulting from the gross negligence or willful misconduct of the Trustee while the Trustee is in actual possession of the Mortgaged Property.

**General Indemnification.** The Borrowers have agreed that the Trustee and the officers, employees, members, directors officials, and agents thereof shall not be liable for, and covenants and agrees to protect, exonerate, defend, indemnify and save the Trustee and the officers, employees, members, directors, officials and

agents thereof harmless from and against, any and all losses, claims, costs, damages or liabilities which may arise out of (1) the Trustee's holding an interest in the Mortgaged Property (other than any costs, damages or liabilities arising from the lack of authority or power of the Trustee to hold such interest), or (2) the issuance of Series 2005 Notes and the Series 2005 Bonds, and from any and all losses, claims, damages, liabilities, suits and actions, at law or in equity, by or on behalf of any person or persons, firm or firms, corporation or corporations, arising from any act, failure to act, condition, happening or occurrence whatsoever in and about the Mortgaged Property and have agreed further to protect, exonerate, defend, indemnify and save the Trustee and the officers, employees, members, directors, officials and agents thereof harmless from and against any and all losses, claims, damages or liabilities arising from any condition of the buildings or building equipment or of the loading platforms, parking areas, or any other part of the Mortgaged Property or of any street, curb or sidewalks adjoining the Mortgaged Property or of any passageway appurtenant thereto, or arising from any breach or default on the part of the Borrowers in the performance of any covenant or agreement on the part of the Borrowers to be performed pursuant to the terms of the Mortgages, including but not limited to any covenant, condition or restriction now of record affecting the Mortgaged Property, or arising out of any contract or lease made by or assigned by the Borrowers relating to the Mortgaged Property, or arising from any act of negligence of the Borrowers or its agents, contractors, servants, employees or licensees performing work on or about the Mortgaged Property or arising from any accident, injury or damage whatsoever, caused to any person, firm or corporation during the term of the Mortgages, in or about the Mortgaged Property, or upon the sidewalks and curbs adjoining the same or in any passageway appurtenant thereto; and from and against all costs, reasonable counsel fees, expenses and liabilities incurred in or about the defense of any such claims or action or proceedings brought thereon; provided, however, that the Borrowers shall not be required to indemnify the Trustee for any costs, damages or liabilities to the extent, but only to the extent, resulting from the gross negligence or willful misconduct of the Trustee while the Trustee is actually in possession of the Mortgaged Property.

**Damage, Destruction Or Condemnation.** In case of damage to or destruction of the Mortgaged Property, or any part thereof; the Borrowers have agreed to promptly comply with the requirements of the Loan Agreement to the extent applicable. All insurance proceeds payable on account of damage or destruction to, or title defects with respect to, the Mortgaged Property are to be paid to the Trustee as provided in the Loan Agreement and applied as provided in the Loan Agreement. In the event that the Mortgaged Property, or any part thereof; is taken in condemnation proceedings or by exercise of any right of eminent domain (hereinafter collectively called "condemnation proceedings"), the rights of the Borrowers and the Trustee to participate in any such condemnation proceedings and the award that may be made in any such proceeding or the proceeds thereof shall be determined pursuant to the Loan Agreement. The Borrowers have agreed that no damage or destruction of, or condemnation proceeding with respect to, the Mortgaged Property nor any application of insurance or condemnation proceeds to the payment of the Secured Obligations secured by the Mortgages shall postpone or reduce the amount of any of the current installments of principal or interest becoming due under the Secured Obligations which shall continue to be made in accordance with the terms of the Secured Obligations until the Secured Obligations and all interest due thereunder are paid in full.

**Events of Default under the Mortgages.** Any one or more of the following events constitutes an event of default under the Mortgages:

(a) an Event of Default as defined in the Loan Agreement has occurred and is continuing or the Borrowers fail to pay or perform any of the Secured Obligations when due; or

(b) if the Borrowers default in the due observance or performance of or compliance with any of the provisions, warranties, covenants, promises, agreements, terms or conditions to be observed, performed, or complied with by the Borrowers, as contained in the Mortgages, other than those referred to in paragraph (a) above, and such default shall continue uncured for a period of thirty (30) days after written notice thereof to the Borrowers except that in the case of a default under this paragraph (b) which cannot with due diligence be cured within such period of thirty (30) days, the time within which Borrowers may cure the same is to be extended for such period as may be reasonably necessary in the Trustee's discretion to cure the same with due diligence (but in no event more than 90 days), provided the Borrowers commence within such thirty (30) days and proceeds diligently to cure the same; or

(c) any representation or warranty made by Borrowers in the Mortgages, or any other statement or certificate furnished by them pursuant thereto shall prove to have been untrue in any material respect as of the date of the issuance or making thereof; or

(d) if the Borrowers voluntarily violates the provisions of the Mortgages which provides that: (i) the Borrowers shall not by deed, mortgage, pledge, lease, easement or other instrument, grant, mortgage, pledge, convey, assign, devise or otherwise transfer all or any part of the Mortgaged Property or any interest therein, directly or indirectly, other than a conveyance, assignment or transfer permitted under the terms of the Loan Agreement, nor shall the Mortgagor suffer or permit such conveyance, assignment or transfer by execution sale or operation of law or otherwise; or (ii) other than as permitted under the Loan Agreement, the Borrowers will not create or suffer to be created any security interest under the Indiana Uniform Commercial Code or other encumbrance in favor of any party other than the Mortgagee, or create or suffer any reservation of title by any such other party, with respect to any of the Mortgaged Property.

**Acceleration - Remedies Upon Default.** Upon the happening of any one or more Events of Default under the Mortgages as set forth above, the entire unpaid balance of the principal, accrued interest and all other sums secured by the Mortgages shall, at the option of the Trustee, the Loan Agreement, become immediately due and payable without notice or demand, and the Trustee may forthwith, with or without accelerating the Secured Obligations, exercise any and all rights available to it at law or equity, elect to apply any of the following remedies or any remedy set forth in the Loan Agreement (which remedies shall be cumulative):

(a) Subject to the Mortgages, institute an action of mortgage foreclosure or take such other action as the law may allow, at law or in equity, for the enforcement thereof and realization on the mortgage security or any other security which is herein or elsewhere provided for, and proceed thereon to final judgment and execution thereon for the entire unpaid balance of the principal indebtedness which has been accelerated, with interest, at the rates and pursuant to the methods of calculation specified in the applicable debt instrument, together with all other sums secured by the Mortgages, all costs of suit, interest at the above rates on any judgment obtained by the Trustee from and after the date of any sheriff's sale of the Mortgaged Property until actual payment is made by the sheriff of the full amount due the Trustee, and reasonable attorneys' fees, without further stay, any law, usage, or custom to the contrary notwithstanding.

(b) Enter into possession of the Mortgaged Property; lease the same; collect all rents and profits therefrom and, after deducting all costs of collection and administration expenses, apply the net rents and profits to the payment of taxes, water and sewer rents, charges (including but not limited to agents' compensation and fees and costs of counsel and receivers) and to the maintenance, repair or restoration of the Mortgaged Property, or on account and in reduction of the principal, interest, or principal and interest, hereby secured, in such order and amounts as the Trustee, in the Trustee's sole discretion, may elect. The Trustee shall be liable to account only for rents and profits actually received by the Trustee.

(c) Have a receiver appointed to enter into possession of the Mortgaged Property, collect the rents, issues and profits therefrom and apply the same as the court may direct. The Trustee shall be entitled to the appointment of a receiver without the necessity of proving either the inadequacy of the security or the insolvency of the Borrowers or any other person who may be legally or equitably liable to pay moneys secured hereby and the Borrowers and each such person shall be deemed to have waived such proof and to have consented to the appointment of such receiver. Should the Trustee or any receiver collect rents, issues or profits from the Mortgaged Property, the moneys so collected shall not be substituted for payment of the debt nor can they be used to cure the default, without the prior written consent of the Trustee. The Trustee or any receiver shall be liable to account only for rents, issues and profits actually received by the Trustee or any receiver.

(d) Take possession of any of the Mortgaged Property constituting Personal Property and sell any portion of such property pursuant to the provisions of the Indiana Uniform Commercial Code and generally exercise any of such other rights and remedies with respect to such property as may be provided by said Code.

(e) Proceed by one or more suits, actions or proceedings at law or in equity or otherwise or by any other approved means to enforce payment of the Secured Obligations and all other amounts due under the Loan Agreement or the Mortgages by the Borrowers or protect and enforce any of Borrowers' rights or powers under the Loan Agreement or the Mortgages.

(f) Exercise any and all rights of a secured party with respect to the Personal Property under the Uniform Commercial Code and in conjunction with, in addition to or in substitution for those rights and remedies: (i) take possession of, assemble and collect the Personal Property or render it unusable by the Borrowers; and (ii) require the Borrowers to assemble the Personal Property and make it available at any place the Trustee may designate so as to allow the Trustee to take possession or dispose of the Personal Property.

(g) Collect all rents arising from the Mortgaged Property and apply such rents, at the option of Trustee, to the payment of the Secured Obligations, taxes, costs of maintenance, repairs, expenses incident to managing and other expenses, in the manner set forth in the Loan Agreement; but such collection of rents shall not operate as an affirmation of the tenant or lease in the event Borrowers' title to the Mortgaged Property should be acquired by Trustee. Trustee shall be liable to account only for rents and profits actually received by Trustee. In exercising any of the powers in this paragraph contained, the Trustee may also take possession of, and for these purposes use, any and all personal property contained in the Mortgaged Property and used by Borrowers in the rental or leasing thereof or any part thereof.

(h) With respect to the Gross Revenues and any other rents, Accounts Receivable, general intangibles and contract rights, to ask for, demand, collect, receive, compound and give acquittance therefor or any part thereof, to extend the time of payment of, compromise or settle for cash, credit or otherwise, and upon any terms and conditions thereof, to endorse the name of Borrowers on any checks, drafts or other orders or instruments for the payment of moneys payable to Borrowers which shall be issued in respect thereof, to exercise and enforce any rights and remedies in respect thereof, to file any claims, commence, maintain or discontinue any actions, suits or other proceedings deemed by the Trustee necessary or advisable for the purpose of collecting or enforcing payment and performance thereof; to make test verifications thereof or any portion thereof, to notify any or all account debtors thereunder to make payment thereof directly to the Trustee for the account of the Trustee and require Borrowers to forthwith give similar notice to the account debtors, and to require Borrowers forthwith to account for and transmit to the Trustee in the same form as received all proceeds (other than physical property) or collection thereof received by Borrowers and, until so transmitted, to hold the same in trust for the Trustee and not commingle such proceeds with any other funds of Borrowers.

Upon the occurrence of an Event of Default the Trustee, pursuant to the foregoing rights and remedies or in addition thereto, (a) shall be entitled to resort to its several securities for the payment of the sums secured hereby in such order and manner as the Trustee may think fit without impairing the Trustee's lien in or rights to any of such securities and without affecting the liability of any person, firm or corporation for the sums secured hereby, except to the extent that the indebtedness secured hereby shall have been reduced by the actual monetary consideration, if any, received by the Trustee from the proceeds of such security; (b) may, in the Trustee's sole discretion, release for such consideration as the Trustee may require, any portion of the Mortgaged Property without, as to the remainder of the security, in any way impairing or affecting the lien of the Mortgages or the priority thereof or improving the position of any subordinate lienholder with respect thereto, except to the extent that the indebtedness secured hereby shall have been reduced by the actual monetary consideration, if any, received by the Trustee for such release; and/or (c) may accept the assignment or pledge of any other property in place thereof as the Trustee may require without being accountable for so doing to any other lienor. In the event of any breach or anticipatory breach by the Borrowers of any of the covenants, agreements, terms or conditions contained in the Mortgages, the Trustee shall be entitled to enjoin such breach or anticipatory breach and shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise as though other remedies were not provided for in the Mortgages.

**Waiver of Errors and Notices.** To the extent permitted by law, the Borrowers have waived and released (a) all technical errors, defects and imperfections in any proceedings instituted by the Trustee under the Mortgages and (b) all notices not herein or elsewhere specifically required of the Borrowers' default or of the Trustee's exercise, or election to exercise, any option or remedy under the Mortgages.

**Possession of Mortgaged Property.** After the occurrence of an Event of Default the Borrowers have agreed, on demand, surrender possession of the Mortgaged Property to the Trustee and has consented that, at any time after such demand, the Trustee may enter upon the Mortgaged Property, take possession, custody and control of same, let the same, collect all rents therefrom and apply the rents, after payment of all charges and expenses, on account of the Borrowers' obligations hereunder and of the debt secured hereby whether then matured or not; and the Trustee, by virtue of such right to possession and as attorney-in-fact of the Borrowers, may dispossess, by summary proceedings or otherwise, any tenant of all or any part of the Mortgaged Property then or thereafter in default under such tenant's lease and any tenant whose leasehold estate is subordinate to the lien of the Mortgages whether or not such tenant is so in default. In the event that the Borrowers or any party claiming through the Borrowers is an occupant of part of the Mortgaged Property, the Borrowers and any such party have agreed to surrender possession to the Trustee immediately upon any default hereunder and demand by the Trustee, and if the Borrowers or any party claiming through the Borrowers remains in possession, such possession shall be as tenant of the Trustee, and the Borrowers or such party are to pay monthly in advance to the Trustee such rent for the premises so occupied as the Trustee may reasonably demand, and in default of so doing, the Borrowers or such party may also be dispossessed by summary proceedings or otherwise. The Trustee is not in any circumstances required to foreclose on the Mortgaged Property, take a deed in lieu of foreclosure, take title to or otherwise control or deal with the Mortgaged Property until (i) an environmental assessment or assessments of sufficient magnitude to detect and identify contamination on the Mortgaged Property has been performed by an engineer acceptable to the Trustee and, if the environmental assessment or assessments disclose contamination which requires remediation, the costs for such remediation have been fully assured, and until (ii) the Trustee has been fully indemnified by the Borrowers for all cost, expenses and liabilities which the Trustee may incur by reason of acts taken or omitted with respect to the Mortgaged Property. The Trustee has no obligation or responsibility to monitor activity to detect environmental problems before the Trustee has received notice or knowledge that an Event of Default has occurred.

**Advances by Trustee.** The Trustee may, but is not obligated to, pay any sum or perform any other obligation for the account of the Borrowers which the Borrowers have failed to pay or perform, and sums so spent by the Trustee shall be added to the principal sum secured by the Mortgages and be repayable by the Borrowers on demand, and shall bear interest from the date of advance by the Trustee at 4% over the annual rate of interest from time to time applicable to the Secured Obligations or the highest rate of interest permitted by law, whichever is less.

**Satisfaction of Mortgage.** If the Borrowers complies with the provisions of the Mortgages and pays to the Trustee all sums, and performs all obligations, secured hereby in accordance with the terms of and at the times provided in the Loan Agreement, the Series 2005 Notes and the Mortgages, without deduction, fraud or delay, then the Mortgages and the estate and security interest thereby granted and created shall then cease, terminate and become void, and the powers of attorney granted thereunder to the Trustee by the Borrowers shall be deemed to be cancelled or terminated, and the Trustee has agreed to execute and deliver such mortgage satisfactions, termination statements and other documents as the Borrowers may reasonably request to evidence the same.

**Partial Releases.** In the event the Borrowers sell and convey any Facility in compliance with the provisions of the Loan Agreement, the Trustee is to deliver to Borrowers (i) a partial release of the Mortgages releasing the lien of the Mortgage on the portion of the Mortgaged Premises that includes such Facility and (ii) a termination statement or statements with respect to any financing statements filed or recorded with respect to Personal Property pertaining to such Facility; provided that the Mortgages shall remain in full force and effect with respect to any portion of the Mortgaged Property not so released.

**Advance Money Mortgage.** The Mortgages secure future obligations and advances made pursuant to the Mortgages or pursuant to the Loan Agreement. If any of the Borrowers sends a written notice to Trustee which purports to limit the indebtedness secured by the Mortgages and to release the obligation of Trustee to make any additional advances to Borrowers, such a notice shall be ineffective as to any future advances made: (i) to enable completion of the improvements on the Mortgaged Property for which the obligations secured hereby were originally made; (ii) to pay taxes, assessments, maintenance charges and insurance premiums; (iii) for costs incurred for the protection of the Mortgaged Property or the lien of the Mortgages; (iv) expenses incurred by Trustee by reason of a default of Borrowers under the Mortgages or under the Loan Agreement; and (v) any other costs incurred by Trustee to protect and preserve the Mortgaged Property.

Future Short Term Indebtedness. Pursuant to the Loan Agreement, in the event that the Borrowers incur Short Term Indebtedness under the Loan Agreement, such Short Term Indebtedness may be secured by (i) a lien on the Borrowers' Accounts Receivable and the proceeds thereof (which lien may be superior to the lien on the Borrowers' Accounts Receivable and the proceeds thereof which is evidenced by the Mortgages); or (ii) liens on other Gross Revenues of the Borrowers (provided that such liens on Gross Revenues of the Borrowers shall be expressly subordinate in priority of lien and right of payment to the lien on Gross Revenues granted hereunder). In the event that the Borrowers incurs Short Term Indebtedness under the Loan Agreement which is to be secured by a lien on the Borrowers' Accounts Receivable and the proceeds thereof (herein "Future Short-Term Debt"), the lien on Accounts Receivable and proceeds thereof created under the Mortgages are to be automatically subordinated to the lien created by the Future Short-Term Debt documents without the requirement of any additional subordination or other agreement. Moreover, the Future Short-Term Debt may include provisions requiring gross revenues from the Facilities to be deposited in one or more lockbox accounts prior to the deposit of funds into the Revenue Fund (as set forth in the Loan Agreement, and to the extent that any provisions of the Mortgages would act to limit Borrowers' ability to enter into Future Short-Term Debt documents containing such provisions, any such limitations are to be deemed inapplicable.

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**APPENDIX F**

**PROPOSED FORM OF BOND COUNSEL OPINION**

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December 2, 2005

Indiana Health and Educational  
Facility Financing Authority  
Indianapolis, Indiana

Re: Indiana Health and Educational Facility Financing Authority  
Tax-Exempt Senior Health Care Revenue Bonds, Series 2005A  
(American Eagle LifeCare Project)

Indiana Health and Educational Facility Financing Authority  
Taxable Senior Health Care Revenue Bonds, Series 2005B  
(American Eagle LifeCare Project)

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Ladies and Gentlemen:

We have acted as bond counsel to American Eagle Home Place, LLC, an Indiana limited liability company, American Eagle Morning Breeze, LLC, an Indiana limited liability company, and American Eagle Sanders Glen, LLC, an Indiana limited liability company (collectively, the “Borrowers”), in connection with the issuance by the Indiana Health and Educational Facility Financing Authority (the “Issuer”) of \$11,120,000 aggregate principal amount of its Tax-Exempt Senior Health Care Revenue Bonds, Series 2005A (American Eagle LifeCare Project), dated the date hereof (the “Series 2005A Bonds”), and \$2,735,000 aggregate principal amount of its Taxable Senior Health Care Revenue Bonds, Series 2005B (American Eagle LifeCare Project), dated the date hereof (the “Series 2005B Bonds” and, together with the Series 2005A Bonds, the “Bonds”), pursuant to Indiana Code Section 5-1-16-1, *et seq.*, a Trust Indenture between the Issuer and Wells Fargo Bank, National Association, as trustee, dated as of October 1, 2005 (the “Indenture”), and a Loan Agreement among the Issuer, American Eagle LifeCare Corporation (“American Eagle”) and the Borrowers, dated as of October 1, 2005 (the “Loan Agreement”). In such capacity, we have examined such law and such certified proceedings, certifications and other documents as we have deemed necessary to render this opinion.

Regarding questions of fact material to our opinion, we have relied on representations of the Issuer, the Borrowers and American Eagle contained in the Indenture and the Loan Agreement, the certified proceedings and other certifications of public officials furnished to us, and certifications, representations and other information furnished to us by or on behalf of the Issuer, the Borrowers, American Eagle and others, including without limitation certifications contained in the tax and arbitrage certificate of the Issuer, the Borrowers and American Eagle dated the date hereof, without undertaking to verify the same by independent investigation. We have relied upon the legal opinion of the Office of the Attorney General of the State of Indiana,

Indianapolis, Indiana, dated the date hereof, the legal opinion of Boulton, Cummings, Conners & Berry PLC, Nashville, Tennessee, counsel to the Borrowers, dated the date hereof, and the legal opinion of Hall, Render, Killian, Heath & Lyman, PSC, Indianapolis, Indiana, special local counsel to the Borrowers, dated the date hereof, as to the matters stated therein.

Based on the foregoing, we are of the opinion that, under existing law:

1. The Bonds have been duly authorized, executed and delivered by the Issuer, and are valid and binding special and limited obligations of the Issuer, enforceable against the Issuer in accordance with their terms. The Bonds are payable solely from the Trust Estate (as defined in the Indenture).

2. The Indenture has been duly authorized, executed and delivered by the Issuer, and is a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms.

3. Under Section 103 of the Internal Revenue Code of 1986, as amended and in effect on this date (the "Code"), interest on the Series 2005A Bonds is excludable from gross income for federal income tax purposes. The opinion set forth in this paragraph is subject to the condition that the Issuer, the Borrowers and American Eagle comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Series 2005A Bonds in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. The Issuer, the Borrowers and American Eagle have covenanted or represented that they will comply with such requirements. Failure to comply with certain of such requirements may cause interest on the Series 2005A Bonds to be included in gross income for federal income tax purposes retroactively to the date of issuance of the Series 2005A Bonds.

4. Interest on the Series 2005A Bonds is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, such interest is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations.

5. Interest on the Bonds is exempt from income taxation in the State of Indiana (the "State") for all purposes except the State financial institutions tax.

We have not been engaged or undertaken to review the accuracy, completeness or sufficiency of the Official Statement dated December 2, 2005, or any other offering material relating to the Bonds, and we express no opinion relating thereto.

We express no opinion regarding any tax consequences arising with respect to the Bonds, other than as expressly set forth herein.

With respect to the enforceability of any document or instrument, this opinion is subject to the qualifications that: (i) enforceability of such document or instrument may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium, fraudulent conveyance and similar laws relating to or affecting the enforcement of creditors' rights; (ii) the enforceability of equitable rights and remedies provided for in such document or instrument is subject to judicial discretion, and the enforceability of such document or instrument may be limited by general principles of equity; (iii) the enforceability of such document or instrument may be limited by public policy; and (iv) certain remedial, waiver and other provisions of such document or instrument may be unenforceable, provided, however, that in our opinion the unenforceability of those provisions would not, subject to the other qualifications set forth herein, affect the validity of such document or instrument or prevent the practical realization of the benefits thereof.

This opinion is given only as of the date hereof, and we assume no obligation to update, revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention, or any changes in law that may hereafter occur.

Very truly yours,

**BARNES & THORNBURG LLP**

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**APPENDIX G**

**PROPOSED FORM OF MANAGEMENT AGREEMENT**

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\_\_\_\_\_ <sup>1</sup> **MANAGEMENT AGREEMENT**

THIS MANAGEMENT AGREEMENT, made and entered into as of this the 2<sup>nd</sup> day of December, 2005, by and between **MEDICAL REHABILITATION CENTERS, INC.**, a Kentucky corporation, ("MRC"), and \_\_\_\_\_ <sup>2</sup> LLC, an Indiana limited liability company ("American").

WITNESSETH:

WHEREAS, American owns \_\_\_\_\_ <sup>3</sup> in \_\_\_\_\_ <sup>4</sup>, Indiana, \_\_\_\_\_ <sup>5</sup> (the "Facility") and has financed the acquisition of the Facility pursuant to a Loan Agreement dated as of October 1, 2005 (the "Loan Agreement") among the Indiana Health and Educational Facility Financing Authority (the "Issuer"), American and the Affiliated Entities (as defined below) and the Trust Indenture dated as of October 1, 2005 (the "Trust Indenture") between the Issuer and Wells Fargo Bank, N.A., as trustee (the "Trustee") (the Loan Agreement and the Trust Indenture and any similar instrument relating to any debt incurred by American to finance the acquisition of the Facility are hereinafter referred to as the "Financing Documents"); capitalized terms used but not defined herein shall have the meanings set forth in the Financing Documents; and

WHEREAS, American desires to engage MRC to manage and supervise the operations of the Facility as American's agent; and

WHEREAS, MRC is skilled and experienced in the management and supervision of such Facility; and

WHEREAS, \_\_\_\_\_ and \_\_\_\_\_, affiliates of American (the "Affiliated Entities") have entered into similar management agreements with MRC of even date herewith

\_\_\_\_\_

<sup>1</sup> Name of facility; i.e., "The Home Place"; "Morning Breeze Retirement Community & Healthcare Center"; or "Sanders Glen"

<sup>2</sup> Name of owning entity: i.e., American Eagle Home Place, LLC; American Eagle Morning Breeze, LLC; or American Eagle Sanders Glen.

<sup>3</sup> Name of facility

<sup>4</sup> Town where facility is located: i.e., The Home Place—Indianapolis; Morning Breeze—Greensburg; Sanders Glenn—Westfield.

<sup>5</sup> Describe facility: i.e., The Home Place—"a 60-unit independent living facility"; Morning Breeze—"a 44-bed comprehensive care unit together with a 31-unit residential care unit and 18 villas for independent living"; Sanders Glen—"a 111-unit rental retirement community".

with respect to \_\_\_\_\_ and \_\_\_\_\_, respectively (the "Other Facilities"), owned by them (the "Related Management Agreements");

NOW, THEREFORE, American hereby engages MRC to perform the functions and provide all of the services described hereinafter, and MRC accepts such engagement upon such terms and compensation as provided hereinafter.

## **SECTION 1. AUTHORITY OF THE PARTIES**

**1.1 Control Retained in American and Grant of Management Authority.** American shall at all times exercise ultimate control over the assets and operations of American and shall retain the ultimate authority and responsibility regarding the powers, duties and responsibilities vested in American by law and regulations. Subject to the foregoing, American hereby grants to MRC the authority to supervise the operations of the Facility and to perform the specific functions set out herein in accordance with policies adopted and directions given by the Board.

**1.2 Relationship of the Parties.** The relationship created hereby is one of principal (American) and agent (MRC).

## **SECTION 2. MANAGEMENT OF THE FACILITY**

**2.1 General Responsibilities.** MRC shall perform those functions reasonably required to supervise the operations of the Facility, including; but not necessarily limited to, those set forth in the remainder of this section, all in accordance with (i) generally accepted management techniques, (ii) the reasonable exercise of its judgment, and (iii) the policies adopted and directions given from time to time by the Board. MRC shall be responsible for managing the Facility and all its assets and services with the same degree of diligence and skill as is employed by MRC in the management of similar facilities which are managed by it and, without limiting the foregoing, the degree of diligence and skill as is employed by managers of facilities such as the Facility, and substantial compliance with all obligations imposed on American which are known to MRC.

**2.2 Standards of Health Care.** MRC shall, in consultation with the medical practitioners associated with the Facility, use its best efforts to assure that the operations of the Facility meet a high standard of health care in accordance with the policies adopted from time to time by the Board and the resources available to American, and in any event in accordance with the requirements of the Financing Documents.<sup>6</sup>

**2.3 Planning.** MRC will assist the Board in reviewing short-, medium- and long-range objectives for the Facility and in formulating recommendations with respect thereto.

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<sup>6</sup> This provision may be deleted from The Home Place and Sanders Glen Agreements.

**2.4 Government Regulations.** On behalf of American, MRC shall use its best efforts to assure that the Facility substantially complies with the requirements of any applicable statute, ordinance, law, rule, regulation, or order of any governmental or regulatory body having jurisdiction over the Facility.

**2.5 Licenses, Permits and Certifications.** MRC shall use its best efforts to maintain, on behalf and in the name of American, all licenses and permits required in connection with the operation of the Facility and eligibility for participation in such applicable Medicaid and Medicare programs as said programs are presently structured and administered, as they may be amended from time to time, and any successor programs thereto. American shall cooperate with MRC in applying for, obtaining and maintaining such licenses, permits and certifications.<sup>7</sup>

**2.6 Preparation and Adoption of Annual Budgets.** MRC shall prepare an annual budget for the Facility (a "Budget") which sets out major operating objectives, anticipated revenues, expenses, cash flows and capital expenditures, and such information and detail as required by the Financing Documents, and shall present a Budget to American for the Facility for the remainder of the current fiscal year prior to the execution of this Lease and an annual Budget for each year thereafter not later than 30 days prior to the first day of each fiscal year for its acceptance or rejection. If a Budget presented by MRC is rejected by American, then (i) the last month of the prior year's Budget shall be used as a guide for operating the Facility until a new Budget is accepted by American, (ii) such rejection shall specify those items which are disapproved, and (iii) MRC shall resubmit a modified Budget to American for its acceptance or rejection 15 days following receipt of written notice of such rejection. American shall have the right of final acceptance of all Budgets, but such acceptance shall not be unreasonably withheld or delayed. Upon acceptance of a Budget by American, it shall serve as a guide for the operation of the Facility during the ensuing year.

**2.7 Accounting and Tax Records.** MRC shall direct the operation of a suitable accounting system for the Facility, and shall cause to be delivered to American all required tax returns and the following financial statements with respect to the Facility required by the Board and pursuant to the Financing Documents:

- (a) Within 30 days after the close of each calendar month, a balance sheet and statement of operations for the preceding month and the fiscal year to date;
- (b) Within 45 days after the close of each calendar quarter, a balance sheet and related statement of operations for the preceding quarter and the fiscal year to date;
- (c) Within 120 days after the close of each fiscal year, subject to delays by causes beyond MRC's control, a balance sheet and related statement of operations for the

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<sup>7</sup> This provision as it relates to the Medicare/Medicaid programs may be deleted from The Home Place and Sanders Glen Agreements.

fiscal year, which shall be compiled at American's expense by an independent certified public accounting firm chosen by MRC.

**2.8 Management Information Systems.** MRC shall develop as needed and maintain, at American's expense, adequate management information systems with respect to the Facility.

**2.9 Bank Accounts and Working Capital.**

- (a) MRC, in the Facility's name and on behalf of American, shall (i) collect with all due dispatch all Gross Revenues, and (ii) deposit weekly all Gross Revenues of the Facility in the form received for deposit into the Revenue Fund established and held by the Trustee under the Indenture, provided that an amount not exceeding \$30,000 in the aggregate with respect to the Facility and the Related Facilities may be maintained in the Operating Accounts.
- (b) Upon receipt from the Trustee of any transfer of moneys in respect of operating expenses, MRC shall deposit all of such moneys in a bank account or accounts of the Facility (hereinafter referred to as the "Operating Accounts") established in American's name, and shall supervise the disbursements from the Operating Accounts on behalf of American of such amounts and at such times as the same are required in MRC's reasonable business judgment, including all operating expenses for the Facility which shall include, without limitation, payment of a home office fee to American Eagle LifeCare Corporation of \$\_\_\_\_\_<sup>8</sup> per month, adjusted annually to reflect changes mutually agreeable to American and MRC. MRC shall discharge such supervisory responsibilities in accordance with reasonable and customary business standards and practices. All costs and expenses (including MRC's management fee) incurred in the operation of the Facility shall be paid out of Operating Accounts. MRC shall specify with the approval of American, the signatory or signatories of MRC required on all checks or other documents of withdrawal submitted by MRC on the Operating Accounts, but a signatory designated by American shall at all times also be an authorized signatory on all Operating Accounts. MRC shall not withdraw any monies from the Operating Accounts, to pay any item other than normal and customary expenses and costs of operation of the Facility, all capital items as budgeted or as approved by American, and all entitlement due MRC and its affiliates pursuant to this Agreement.

**2.10 Collection of Accounts.** Pursuant to collection policies recommended by MRC and approved by American, MRC shall supervise and direct the collection of all accounts due American with respect to the Facility and shall take all reasonable steps necessary to minimize the number and amount of bad debts.

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<sup>8</sup> \$1,000 per month for Sanders Glen, \$300per month for The Home Place, and \$1,250 for Morning Breeze, for an aggregate of \$30,600 per year

**2.11 Legal Actions.** MRC, with approval of the Board, shall initiate and pursue, in the name and on behalf of American, any and all legal actions or proceedings necessary to operate the Facility and protect their assets.

**2.12 Rates.** MRC will recommend rate structures for the Facility to American for approval, and take into account the financial obligations of American and the importance of providing quality health care at a reasonable cost. MRC will have the final approval as to rates.

**2.13 Insurance.** MRC shall use its best efforts to obtain on behalf and for the account of American, insurance with respect to the Facility, which satisfies the requirements of the Financing Documents.

**2.14 National Purchasing Programs.** In order to minimize the cost of supplies and services to the Facility, MRC shall offer to American participation for the Facility in any discount arrangements applicable to MRC and its affiliates, if and to the extent permitted.

**2.15 Purchase of Equipment and Supplies.** MRC shall cause the purchase, in the name and for the account of American, of equipment, operating supplies, and other materials and supplies, which may be needed for the maintenance and operation of the Facility.

**2.16 Ancillary and Other Agreements.** MRC shall, in the name and for the account of American, negotiate and enter into such agreements as MRC may deem necessary or advisable for the furnishing of utilities, services, concessions, and supplies for the maintenance and operation of the Facility, including the rendering of professional services.

**2.17 Repairs and Renewals.** MRC shall negotiate, contract in the name and for the account of American for, and supervise such repairs and renewals of the physical property and equipment of the Facility as shall be reasonably necessary to keep and maintain such property in good working order and condition. Such repairs and renewals as MRC may consider capital expenditures of American shall be undertaken in accordance with § 2.18.

**2.18 Capital Expenditures.** MRC shall review and make recommendations to American concerning non-budgeted proposed capital expenditures for the Facility in excess of \$4,999 per expenditure and, upon approval (provided, however, that such approval shall not be required in the case of an emergency) shall, in the name and for the account of American, negotiate, contract for, and supervise the construction or installation of such capital items. Notwithstanding the foregoing, MRC shall not spend more than \$4,999 on items not included in the budget during any given year without first obtaining approval of the Board. Any amounts spent which were not included in the budget but which have since been ratified by the Board as acceptable expenditures shall not apply to the \$4,999 limit in determining whether an additional expenditure will cause the \$4,999 threshold to be crossed.

**2.19 Financing Documents.** MRC is not an obligor or guarantor under the Financing Documents. However, MRC shall use its best efforts to manage the Facility in such a manner as to provide sufficient operating profits to meet all financial obligations of American under the Financing Documents and, provided such funds are available, otherwise substantially to comply

with the Financing Documents; provided, however, MRC shall have no liability hereunder for actions taken by the American which result in violation of the Financing Documents.

**2.20 Tax Returns.** Unless otherwise directed by American, MRC shall be responsible for the preparation of employment and property tax returns with respect to the Facility required of American by any federal or state regulatory agency. MRC may outsource the preparation of employment and property returns at the cost and expense of American.

**2.21 Quality Controls.** MRC shall institute and maintain on a continuing basis, a Quality Assurance Program in order to provide objective measurements of the quality of health care provided at the Facility and in connection therewith shall utilize patient interviews, physician interviews, periodic inspections and such other techniques as MRC may reasonably deem necessary to maintain the quality of health care.

**2.22 Compliance with Laws.** MRC shall take, at the cost and expense of American, such reasonable action as shall be necessary, and will use its best efforts, to ensure that the Facility and the operation thereof by MRC will comply, in all material respects, with all federal, state, and local laws, rules, regulations, and ordinances applicable to the Facility or the operation thereof by MRC including the particular laws and regulations applicable to nursing homes leased by for-profit organizations. In the event the terms of this Agreement or the actions taken hereunder by MRC or American, at any time, shall fail to comply with any federal, state or local law, rule, regulation or ordinance, such failure shall, at the cost and expense of American, be cured as soon as practicable by MRC or American and, to the extent such failure requires the modification of this Agreement, MRC and American agree to make such modification to cause this Agreement to comply with all applicable rules, laws, regulations and ordinances.

**2.23 Use of Facility.** MRC shall use the Facility solely for skilled or intermediate care nursing Facility, assisted living, senior housing or other long term care purposes and for all activities in connection therewith which are customary and usual to such Facility.

**2.24 Liens.** MRC shall use its best efforts to prevent any liens from being filed against any of the Facility which arise from any maintenance, repairs, alterations, improvements, renewals or replacements in or to the Facility. MRC shall cooperate fully in obtaining the release of any such liens.

**2.25 Additional Reports and Returns.**

- (a) MRC shall cause to be prepared and delivered on behalf of American all financial and other reports required by the Financing Documents. To the extent that such reports are prepared by accountants and other outside consultants, MRC shall arrange for the hiring of such accountants and other outside consultants at the cost and expense of American.
- (b) American authorizes MRC, and MRC shall file on behalf of American, Medicaid and federal Medicare Cost reports, where appropriate, for the Facility. The cost

and expense of the preparation of Medicaid and federal Medicare Cost reports by outside consultants will be American's.<sup>9</sup>

- (c) If necessary and at the cost and expense of American, MRC shall prepare and file other reports or requests to Medicare, its intermediary or Medicaid including but not limited to:<sup>10</sup>
  - (i) Budget Cost Reports required to be submitted for setting of the Facility's rates.
  - (ii) Interim Rate Increase Requests necessary to increase the interim rate of the Facility.
- (d) Annually, MRC shall be responsible for the preparation of all returns American is required to file with the Internal Revenue Service and shall submit such returns to American or a person designated by American for review at least 10 business days prior to the date such returns are required to be filed with the Internal Revenue Service. The cost and expense of preparation by outside consultants will be American's responsibility.

**2.26 Access to Facility.** MRC shall, after reasonable notice, make available to American, or any Significant Bondholder, and their agents and representatives, for inspection and/or copying by them upon request, all books, records and financial data relating to the Facility in MRC's possession. MRC shall provide, after request and reasonable notice, to American the information and materials in MRC's possession that American is required to furnish under the Financing Documents.

**2.27 Notice of Default or Event of Default.** MRC shall provide American with prompt written notice of any Default or Event of Default under the Financing Documents of which MRC has actual notice.

**2.28 Surveys.** MRC shall provide American with summaries of all final licensure and/or certification surveys conducted at the Facility and all plans of correction in response thereto.

**2.29 Provision of Working Capital by MRC.** Pursuant to a Loan Agreement dated as of October 1, 2005 between MRC, American and the Affiliated Entities, MRC shall make revolving credit loans to American up to the amount of the Dollar Limitation set forth in such Loan Agreement.

**2.30 Employment and Supervision of Employees of the Facility.** With the exception of the persons set forth in Section 2.31 (a), all employees of the Facility shall be employees of American, but such employees shall be hired, fired and supervised by MRC. At the termination

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<sup>9</sup> This provision may be deleted from The Home Place and Sanders Glen Agreements.

<sup>10</sup> This provision may be deleted from The Home Place and Sanders Glen Agreements.

or expiration of this Agreement, MRC shall not hire any of the employees of the Facility, other than those set forth in Section 2.31 (a), without the prior written consent of American, and American shall not hire any of the employees of MRC, other than those set forth in Section 2.31 (a), without the prior written consent of MRC.

**2.31 Other Management Services to Be Provided by MRC.** In addition to the foregoing duties, during the term of this Agreement, MRC shall use its best reasonable efforts to:

- (a) Select, employ, supervise, train, promote, direct, assign and discharge on behalf of American, an adequate staff, as required by law and subject to availability, for the Facility, including an administrator (the "Administrator"), bookkeeper ("Bookkeeper"), registered nurse as Director of Nursing (the "Director of Nursing")<sup>11</sup> and program directors (Program Directors) (the "Senior Employees") and provide the services of part-time consultants, including, as appropriate, Dietary Consultant, Quality Assurance Consultant, Marketing Director, Assistant to the Marketing Director, Field Accountant, and an MIS Technician (the "Consultants"), the cost of whom shall be allocated among the Facilities based on the level of effort expended at each Facility; provided, however, that except for the Senior Employees and the Consultants, each of whom may, in MRC's discretion, be employed by MRC, subject to the initial and continuing approval of American, all employees at the Facility shall be employees of American and carried on the payroll of the Facility and shall not be deemed employees or agents of MRC. The payroll costs, benefit and reasonable relocation expenses of any employees of the Facility who are employees of MRC shall be operational expenses included in the budget of each respective Facility to be reimbursed to MRC from American funds received by MRC, and the amounts thereof shall be subject to approval by American Board as part of the budget review process.
- (b) Subject to the provisions contained in applicable collective bargaining agreements, establish general salary scales, personnel policies and appropriate employee benefits for all employees at the Facility. Employee benefits may include insurance benefits, incentive plans for key employees, and holiday, vacation, personal leave and sick leave policies consistent with the current policies of American, if any;
- (c) Issue appropriate bills for services and materials furnished by the Facility and use its best efforts to collect accounts receivable and other moneys owed to the Facility; design and maintain accounting, billing, patient and collection records; and prepare and file insurance, Medicare, Medicaid and any and all other necessary or desirable applications, reports and claims related to revenue production. American expressly delegates and assigns, to the extent permitted by applicable law, to MRC the full right, power and authority as its agent to administer, process and collect on American's behalf and in its name, all

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<sup>11</sup> The references to director of nursing may be deleted from The Home Place and Sanders Glen Agreements.



Medicare and Medicaid receivables.<sup>12</sup> American hereby grants to MRC the right in its name to enforce American's rights under any contract relating to the Facility or in connection with rendering any services at the Facility for purposes of collecting accounts receivable and moneys owed the Facility, and MRC shall use its best reasonable efforts to collect all such receivables and moneys; provided, however, MRC shall not initiate any litigation in the name of American without American's prior written approval.

- (d) Plan, supervise and conduct a program of regular maintenance and repair and, subject to the availability of funds therefore, maintain, preserve and keep the Facility in satisfactory condition, repair and working order;
- (e) Administer, supervise and schedule all resident and other services of the Facility, including the provision of food, barber/beautician and other ancillary services.
- (f) Provide for the orderly payment of accounts payable, employee payroll, taxes, insurance premiums and all other obligations of the Facility and assist American in making provision for the orderly payment of amounts due and payable with respect to the Financing Documents of the Facility; provided however, MRC shall have no obligation to make any such payments out of its own funds;
- (g) Institute standards and procedures for accepting tenants, admitting and discharging patients, for charging tenants and patients for services and for collecting the charges from the tenants, patients or third parties;
- (h) When requested, furnish to American for review and adoption, any and all policy manuals needed with reference to the operation of the Facility and propose revisions to said policy manuals as is needed from time to time to assure, to the best of MRC's ability, that the Facility comply with all applicable local, state and federal laws, regulations and requirements;
- (i) Whenever required by American, MRC shall prepare and present to American written emergency and evacuation procedures for the protection, warning, and safe and timely evacuation of all residents, guests, invitees, and staff from the Facility (the "Emergency and Evacuation Procedures"). MRC agrees to consult with insurance carrier loss prevention consultants if so required by American, and to change such Emergency and Evacuation Procedures if so recommended; provided, that the Emergency and Evacuation Procedures shall at all times comply with applicable governmental requirements. MRC shall take such steps as it deems appropriate to assure the proper training of the Personnel and Administrator and shall assure that all residents receive and are knowledgeable about such Emergency and Evacuation Procedures;

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<sup>12</sup> The references to Medicare and Medicaid may be deleted from The Home Place and Sanders Glen Agreements.

- (j) Handle and settle all employee relation matters, union and nonunion, and negotiate on behalf of American (and in conjunction with American's counsel) with any labor union lawfully entitled to represent employees of American who work at the Facility, but any collective bargaining agreement or labor contract must be submitted to American for its prior written approval and execution.
- (k) Maintain accounting and internal control systems using accounts and classifications consistent with those used in similar nursing facilities, including suitable books and records of control and accounts as are necessary or required in order to employ all state and federal standards, rules and regulations;
- (l) Coordinate ancillary services, including but not limited to speech therapy, occupational therapy, inhalation therapy, physical therapy rehabilitation services and rental of equipment, as MRC may deem reasonable, necessary or desirable in connection with the operation of the Facility; and MRC shall contract on behalf of American with such consultants or other professionals in connection with the providing and delivery of such services on a competitive price basis as MRC shall elect in its reasonable business judgments.

All costs and expenses payable to third parties to facilitate or implement the above activities and services that are to be supervised by MRC shall be borne by American and provided at American's sole cost and expense.

Notwithstanding any of the above provisions to the contrary, all expenditures described herein shall be made substantially in accordance with the general category amounts set forth in a capital or operating budget approved by American pursuant to Section 2.6 hereof, except that the MRC may make commitments or expenditures not contemplated by the budget aggregating not more than \$4,999 for capital expenditures in anyone year without prior approval of American.

In the event of any emergency requiring prompt action for the protection and safety of the Facility or the patients and staff therein or for the protection of the operating licenses of the Facility, or Medicaid or Medicare certifications, in which it is not practicable to obtain prior approval from American or a representative of American, MRC shall be entitled to take any required or necessary action without American's prior approval, following which a report of the occasion for such action and the action taken shall be made to American. Approval by American may be evidenced by a board resolution or a written communication from an officer or authorized representative of American pursuant to policies established from time to time by the board of directors of American and which have been communicated to MRC.

## SECTION 3. MANAGEMENT FEES

### 3.1 Amount.

- (a) (a) On the fourth business day prior to the end of each month during the term hereof, MRC shall receive from American, and American shall pay to MRC, as the amount due for the services provided pursuant to this Agreement, a management fee of \$\_\_\_\_\_ <sup>13</sup> (the "Monthly Fee") with respect to such month (such Monthly Fee being collectively referenced herein as "Management Fee").
- (b) Commencing on first annual anniversary of this agreement, the Monthly Fee for the ensuing year shall be increased, or decreased, each as the case may be, annually by multiplying the Monthly Fee component for the year immediately ended by percentage increase or decrease, as the case may be, in the Consumer Price Index for all Urban Consumers for the last month of most recently ended fiscal year as compared to the Consumer Price Index for all Urban Consumers for the last month of preceding fiscal year.

In the event that American is unable to pay the Management Fees, including, without limitation, the Subordinated Management Fees (as defined below), of MRC at all times and in the event that MRC is reasonably able to continue to perform its services, the Management Fees, including the Subordinated Management Fees, will be accrued and interest at a rate equal to the "Prime Rate" as reported from time to time by the Wall Street Journal under the caption "Money Rates", will be charged to American upon such accrued fees and shall be a part of the expenses of operation of American.

**3.2 Subordination.** Subordination. Thirty percent (30%) of the Management Fees (the "Subordinated Management Fees") shall be subordinated to and subject in right of payment and exercise of remedies to the prior payment in full of the Senior Bonds and to the Trustee's rights under the Financing Documents, upon the conditions, and to the extent, hereinafter set forth. Pursuant thereto, the Subordinated Management Fees are subordinated in right of payment to all payments set forth in Section 7.2(a) (1) through (5) of the Trust Indenture. Furthermore, payment of the Subordinate Management Fees shall be suspended and shall not be made if: (i) as of the most recent Quarterly Evaluation Date (as defined in the Loan Agreement) the Maximum Trade Payables Level (as defined in the Loan Agreement) shall have been exceeded; (ii) the Borrowers (as defined in the Loan Agreement), collectively, shall have failed to comply with the Debt Service Coverage Covenant (as defined in the Loan Agreement) with respect to the most recent Quarterly Evaluation Date; or (iii) the Borrowers, collectively, shall have failed to comply with the Liquidity Covenant (as defined in the Loan Agreement) with respect to the most recent Quarterly Evaluation Date. The Manager acknowledges that moneys in the Operating Reserve Fund and the Replacement Reserve Fund held by the Trustee under the Trust Indenture may not be used to pay Subordinated Management Fees. The failure of American to pay Subordinated

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<sup>13</sup> An aggregate of \$17,000 per month for the three Facilities — The Home Place -- \$2,000; Sanders Glen -- \$6,500; and Morning Breeze -- \$8,500.

Management Fees because of the operation of this Section 3.2 shall not constitute a breach of or a default under this Management Agreement on the part of American and shall not permit MRC to terminate this Management Agreement, and MRC shall undertake no actions or exercise any remedies to collect such Subordinated Management Fees while the payment of such Subordinated Management Fees is suspended by the operation of this Section 3.2 . Any portion of the Monthly Fee not paid due to the foregoing shall be carried over and be payable in the immediately succeeding month. Any Subordinated Management Fees not paid when due shall be subject to the continuing application of the terms of this Section 3.2 and the Financing Documents. The fees of any replacement management company may be senior to the payment of such unpaid Subordinated Management Fees; provided, however, upon any sale of the Facilities or refinancing of the Bonds or the Notes securing the same, prior to distributing any proceeds of such sale or refinancing to any other person, American shall first pay MRC the amount of any outstanding Subordinated Management Fees together with accrued interest thereon to the date; provided further, however, that the preceding proviso shall not be effective with respect to any sale or refinancing occurring (i) following the occurrence of an “event of default” under any Financing Document, or (ii) during any period where the Debt Service Coverage Ratio (as defined in the Indenture) was below 1.20 for the most recent fiscal quarter for which unaudited financial statements are due under the Financing Documents or for the most recent fiscal year for which compiled financial statements are due under the Financing Documents. MRC agrees to execute such further documents as necessary to evidence same as may reasonably be required by counsel to American.

**3.3 Other Fees.** The Management Fee shall be in addition to any and all other reimbursements due MRC. MRC shall not be entitled to be reimbursed for Non-Reimbursable Expenses, as defined in Section 3.4 herein. MRC shall be entitled to be reimbursed for the expenses of employees of the Facility who are employees of MRC as provided in Section 2.31 (a) herein.

**3.4 Non-Reimbursable Expenses.** Except and to the extent approved by American as a part of a Budget or otherwise approved by American, the following expenses shall be paid by MRC, without reimbursement by American:

- (a) any overhead or expenses for MRC's Corporate Office, or equipment or supplies located therein;
- (b) salaries of any executive, supervisory or staff personnel of MRC, including regional or multi-site managers, other than the Senior Employees as defined in Section 2.31 (a);
- (c) salaries, wages, and expenses allocable to any personnel for activities with regard to providing in-house accounting services (other than full-time personnel employed by American at the Facility);
- (d) any salaries, wages, and expenses for any Corporate Office personnel located at the Facility;

- (e) wages, salaries, or other expenses for any services provided by or on behalf of MRC, except as specifically provided herein and authorized in advance by American; and
- (f) in addition, other than as provided in Article 2 hereof, any Corporate Office computer hardware or software, or other expense used or incurred in processing accounts receivable, accounts payable, payroll, general ledger and financial reports of the Facility. However, nothing contained herein shall prohibit MRC from hiring the services of a third-party payroll service as an operating expense of the Facility. Computer Hardware and software located in and used by the Facility is an expenditure or expense of the Facility.

**3.5 Rebates; Discounts.** Any and all refunds, volume discounts, rebates, reduced rates for timely payment, or other benefits derived from business done at, on or through the Facility shall be credited to American and not to MRC.

#### **SECTION 4. OTHER TRANSACTIONS WITH MRC OR ITS AFFILIATES**

**4.1 Transactions with MRC and Its Affiliates.** Notwithstanding anything else herein contained, MRC shall not, without the prior written consent of American after full disclosure by MRC of such affiliation and interest, cause American to enter into any contract with MRC or any affiliate thereof for services required to be provided by MRC under this Agreement, or pay any amount to MRC or its affiliates, other than Management Fees described in Article 3 hereof, or reimbursement of bona fide expenses incurred with third parties who are not such affiliates as described in Article 2 hereof. The parties contemplate that MRC or its affiliates may propose to provide contract services to the Facility which MRC or its affiliates are capable of providing. American agrees to promptly review and approve all such proposed contracts if such services are deemed by American to be provided on a basis that is competitive with the prevailing market rates for such services in the Facility's market area and the costs of providing such proposed services are not expected to exceed the costs that such Facility would incur if the same services were provided internally and directly by such Facility. In connection with such reviews, MRC shall provide American with sufficient information to make an informed decision respecting the quality and costs of competing goods and services. Such information may consist of competitive bids or other information respecting industry standards or such other information as may be reasonably requested by American.

#### **SECTION 5. REPRESENTATIONS, WARRANTIES AND COVENANTS**

**5.1 Representations, Warranties and Covenants of American.** American makes the following representations, warranties and covenants which are material representations and warranties upon which MRC relied as an inducement to enter into this Agreement:

- (a) Status of American. The sole member of American, American Eagle LifeCare Corporation ("American Eagle"), is a not-for-profit corporation duly organized and validly existing in good standing under the laws of the State of Tennessee that has been recognized by the Internal Revenue Service as a § 501(c)(3) corporation. American is an Indiana limited liability company and has all necessary power to

carry on its business as now being conducted, to operate its properties as now being operated, to carry on its contemplated business, to enter into this Agreement and to observe and perform its terms. American is deemed by the Internal Revenue Service to share in American Eagle's § 501(c)(3) status.

- (b) Authority of Due Execution. American has full power and authority to execute and to deliver this Agreement and all related documents and to carry out the terms hereof and thereof; and such execution and delivery and such performance will not with the passing of time, the giving of notice, or both, result in a default under or a breach or violation of (i) the American Articles of Organization or Operating Agreement; or (ii) any law, regulation, court order, injunction or decree of any court, administrative agency or governmental body, or any mortgage, note, bond, indenture, agreement, lease, license, permit or other instrument or obligation to which American is now a party or by which American or any of its assets may be bound or affected. This Agreement constitutes a valid and binding obligation of American, enforceable in accordance with its terms, except to the extent that its enforceability is limited by applicable bankruptcy, reorganization, insolvency, receivership or other laws of general application or equitable principals relating to or affecting the enforcement of creditors' rights.
- (c) Litigation. There is no litigation, claim, investigation, challenge or other proceeding pending or, to the knowledge of American, threatened against American, its properties or business which seeks to enjoin or prohibit it from entering into this Agreement or which, if adversely determined, would have a material adverse effect on American or its financial condition or on the Facility.

**5.2 Representations, Warranties and Covenants of MRC.** MRC makes the following representations, warranties and covenants which are material representations and warranties upon which American relied as an inducement to enter this Agreement.

- (a) Status of MRC . MRC is a corporation duly organized and validly existing in good standing under the laws of the Commonwealth of Kentucky, is qualified to do business and in good standing under the laws of Indiana, and has all necessary power to carry on its business as now being conducted, to carry on its business as contemplated herein, to enter into this Agreement and to observe and perform its terms.
- (b) Authority and Due Execution. MRC has full power and authority to execute and to deliver this Agreement and all related documents and to carry out the terms hereof and thereof; and such execution and delivery and such performance will not with the passing of time, the giving of notice, or both, result in a default under a breach or violation of (i) MRC's Articles of Incorporation or Bylaws, or (ii) any law, regulation, court order, injunction or decree of any court, administrative agency or governmental body, or any mortgage, note, bond, indenture, agreement, lease, license, permit or other instrument or obligation to which MRC is now a party or by which MRC or any of its assets may be bound or affected. This Agreement constitutes a valid and binding obligation of MRC, enforceable in

accordance with its terms, except to the extent that its enforceability is limited by applicable bankruptcy, reorganization, insolvency, receivership or other laws of general application or equitable principles related to or affecting the enforcement of creditors' rights.

- (c) Litigation. Except as separately disclosed in writing to American, there is no litigation, claim, investigation, challenge or other proceeding pending or, to the knowledge of MRC, threatened against MRC, its properties or business which seeks to enjoin or prohibit it from entering into this Agreement or which if adversely determined would have a material adverse effect on the MRC or its financial condition.
- (d) Performance of American's Obligations under Financing Documents. MRC acknowledges receipt of copies of all Financing Documents. MRC covenants and agrees to use its best reasonable efforts to assist American in complying with American's obligations under the Financing Documents.
- (e) Maintenance of American's 501(c)(3) Status. MRC represents, warrants and covenants that it shall promptly provide to American any information in its possession or control or other special types of reports, at American's expense (which expense shall be considered an operating expense of the Facility), about the Facility and their operations which may be requested by American and are required to be maintained or filed by American Eagle to assist American Eagle in remaining a corporation described in Section 501(c)(3) of the Code.
- (f) Charitable Purpose. Notwithstanding any other provision of this Agreement to the contrary, MRC shall operate and manage the Facility in accordance with such directives of American as shall be necessary to maintain American Eagle's status as a §501(c)(3) organization under the Code and to maintain the exclusion of interest on the Tax-Exempt Bonds from gross income for federal income tax purposes. MRC also shall endeavor at all times to operate the Facility in a manner that is consistent with and which reflects the values of American as adopted or enunciated by its sole member. MRC shall not evict any patient from any Facility for inability to pay any fees or charges without the prior written consent of American. American shall be the sole owner of the Facility, and will use the Facility only in furtherance of its lawful corporate charitable purposes. American and MRC will not use the Facility, or permit the Facility to be used, in such a way as would result in the loss of American Eagle's status as a Tax Exempt Charitable Organization, as that term is defined in said §501(c)(3), or the loss of the exclusion of interest on the Tax Exempt Bonds from gross income for federal income tax purposes.

## **SECTION 6. MISCELLANEOUS**

### **6.1 Co-Mingling of Funds.** Notwithstanding any other provision herein to the contrary:

- (i) MRC may, at its discretion, co-mingle funds of American arising from the operations of the Facility described in this Agreement with funds of the Affiliated Entities arising from the operations of the Other Facilities owned by them as described in the Related Management Agreements;
- (ii) The Management Fees and home office fees described in this Agreement and the Related Management Agreements shall be payable in their aggregate amount from the aggregate pool of funds available from the Facility and the Related Facilities irrespective of the performance of the Facility or either of the Related Facilities, provided the overall financial performance of the Facility and the Related Facilities generate sufficient revenues to do so and subject to compliance with the conditions set forth in Section 3.2 hereof with respect to the payment of Subordinated Management Fees.

**6.2 Term.** The term of this Agreement shall commence on Closing Date under the Financing Documents and shall continue until the fifteenth anniversary hereof, subject to earlier termination as set forth in this Article 6.

**6.3 Termination for Cause.** The parties may terminate this Agreement at any time for cause, upon delivery of written notice to the other party, in the event of the following:

- (a) American shall have cause for termination if:
  - (i) MRC shall materially default in the performance of a provision hereof and such default shall continue for a period of 120 days after MRC's receipt of written notice from American stating the specific default; or
  - (ii) MRC shall apply for or consent to the appointment of a receiver, trustee or liquidator of MRC or of all or a substantial part of its assets, file a voluntary petition in bankruptcy, admit in writing its inability to pay its debts as they become due, make a general assignment for the benefit of creditors, or file a petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any insolvency law, or if an order, judgment or decree shall be entered by a court of competent jurisdiction, on the application of a creditor, adjudicating MRC a bankrupt or insolvent or approving a petition seeking reorganization of MRC or appointment of a receiver, trustee or liquidator of MRC or of all or a substantial part of its assets; or
  - (iii) Because of MRC's acts or omissions, there has been a notice by the appropriate governmental or regulatory agency that the operating license for the Facility or any substantial portion thereof will be revoked for reasons within MRC's reasonable control and such notice is not rescinded, vacated or stayed within 120 days of its issuance or such longer period of time during which the Facility may continue to operate as may be



permitted by applicable law or approved by such appropriate governmental or regulatory agency;

- (iv) An event of default occurs under any of the Financing Documents which is not cured within 120 days after MRC's receipt of written notice from American of said event;
  - (v) The Facility shall have received notice that it will lose eligibility for reimbursement under Medicaid or Medicare which notice is not rescinded, vacated or stayed by action of MRC within 120 days of its issuance or such longer period as may be permitted by the Medicaid or Medicare program, as the case may be;<sup>14</sup>
  - (vi) MRC fails to, within the time permitted by such applicable regulatory body plus 120 days, after MRC's receipt of notice thereof, correct any material conditions of participation capable of such correction by MRC (or obtain waivers for such conditions of participation), or fails to diligently prepare a plan of correction for any remaining conditions of participation for which the Facility is cited pursuant to any licensure and/or certification surveyor fails to implement the plan of correction within the time permitted for such corrections;
  - (vii) After negotiating in good faith for 210 days to amend this Agreement in order to cure any provision hereof which is in violation of law as the result of enactment of new laws or promulgation of new regulations after the date hereof, the parties are unable to agree on a mutually acceptable amendment;
  - (viii) The Debt Service Coverage Ratio (as defined in the Loan Agreement) is less than 1.15 for two consecutive fiscal quarters;
  - (ix) If American fails the numerical tests set forth in the Trade Payable Covenant in the Loan Agreement for two consecutive fiscal quarters; or
  - (x) If the Facility fails the numerical test set forth in the Liquidity Covenant in the Loan Agreement for two consecutive fiscal quarters.
- (b) MRC shall have cause for termination if:
- (i) American shall materially default in the performance of a provision hereof and such default shall continue for a period of 120 days after American's receipt of written notice from MRC stating the specific default; or

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<sup>14</sup> This provision may be deleted from The Home Place and Sanders Glen Agreements.

- (ii) American shall apply for or consent to the appointment of a receiver, trustee or liquidator of American or of all or a substantial part of its assets, file a voluntary petition in bankruptcy, admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, or file a petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any insolvency law, or if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating American a bankrupt or insolvent or approving a petition seeking reorganization of American or appointment of a receiver, trustee or liquidator of American or of all or a substantial part of the assets of American.

**6.4 MRC's Obligations after Termination.** Upon termination of this Agreement, or the termination of MRC's services hereunder, as provided above, MRC shall:

- (a) deliver to American, or such other person or persons designated by American, copies of all books and records of the Facility and all funds in the possession of MRC pursuant to the terms of this Agreement or of any of the Financing Documents for or on behalf of American;
- (b) assign, transfer, or convey to such person or persons all service contacts and personal property relating to or used in the operation and maintenance of the Facility, except any personal property which was paid for and is owned by MRC;
- (c) remove, at its cost and expense, all signs that it may have placed at the Facility indicating that it is the manager and replace and restore any damage resulting therefrom; and
- (d) make itself available at reasonable times at the expense of American, for a period of 120 days after such expiration or termination, to consult with and advise American or such other person or persons regarding the operation and maintenance of the Facility.

Upon any termination or the expiration pursuant to this Section, the obligations of the parties hereto (except those specified as surviving) shall cease as of the date specified in the notice of termination, except that MRC shall comply with the applicable provisions of this Section and shall be entitled to receive any and all compensation which may be due MRC hereunder through the effective date of such termination or expiration, subject to the terms of the Financing Documents.

It is contemplated that MRC may lend working capital to American under terms of a separate working capital loan agreement and that the provisions of that document will govern the repayment of any outstanding working capital advances.

**6.5 Right To Terminate in Certain other Events.** Either party shall have the right to amend this Agreement with respect to the Facility which is sold to a third party or taken by

exercise of the right of eminent domain or which is substantially destroyed and thereafter abandoned.

**6.6 Assignment.** MRC may assign this Agreement to a wholly or majority owned subsidiary of MRC, or to a corporation under common control with MRC. In addition, MRC may assign this Agreement to a corporation or other entity which is a successor in interest to MRC provided American shall first consent thereto in writing, which consent will not be unreasonably withheld if such successor's financial condition, business reputation and experience in the business of managing facilities similar to those owned by American are at least as favorable as MRC's. MRC here consents to the assignment of this Agreement to the Trustee as security for the Bonds.

**6.7 Noncompetition.** Neither MRC nor any affiliate of MRC shall compete with the Facility, divert business or patients from the Facility, operate or acquire any facility providing services substantially similar to the services provided by the Facility within a 10 mile radius of the Facility unless otherwise permissible under the Loan Documents.

**6.8 Notices.** Any notice or other communication by either party to the other shall be in writing and shall be given, and be deemed to have been given, if mailed, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

To American:            %American Eagle LifeCare Corporation  
                                 %Boult, Cummings, Conners & Berry, PLC  
                                 1600 Division Street, Suite 700  
                                 Nashville, Tennessee 37203  
                                 Attention: John E. Gillmor

To MRC:                 Wayne S. Tush  
                                 535 West Second Street, Suite 105  
                                 Lexington, KY 40508

or to such other address, and to the attention of such other person or officer, as either party may designate in writing.

**6.9 Modification and Changes.** Any changes hereto must be in writing executed by both parties.

**6.10 Headings.** The headings contained herein are for the convenience of references only and are not intended to define, limit or describe the scope or intent of any provision hereof.

**6.11 Access to Books, Records and Documents.**<sup>15</sup>

- (a)     Until the expiration of four years after the furnishing of services pursuant hereto, MRC shall, as provided in Section 952 of the Omnibus Reconciliation Act of

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<sup>15</sup> This provision may be deleted from The Home Place and Sanders Glen Agreements.

1980 and regulations promulgated thereunder, make available, upon written request, to the Secretary of Health and Human Services or, upon request, to the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement and all books, documents and records of MRC that are necessary to verify the nature and extent of the costs of any services furnished pursuant hereto for which payment may be made under the Medicare program.

- (b) If MRC carries out any of its duties hereunder through a subcontract or subcontracts with an aggregate value or cost of \$10,000 or more over a twelve-month period with a related organization, such subcontract or subcontracts shall contain a clause to the effect that, until the expiration of four years after the furnishing of such services pursuant to such subcontract or subcontracts, the related organization shall, as provided in said Section 952, make available, upon written request, to the Secretary of Health and Human Services or, upon request, to the Comptroller General of the United States, or any of their duly authorized representatives, the subcontract or subcontracts, and all books, documents and records of such organization that are necessary to verify the nature and extent of the costs of any services furnished pursuant to such subcontract or subcontracts for which payment may be made under the Medicare program.

**6.12 No Waiver.** Neither the failure by the aggrieved party to insist upon strict performance of any covenant, agreement, term or condition hereof or to exercise any remedy consequent upon a breach thereof, nor the acceptance of full or partial performance during the continuance of any breach by the other party, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition.

**6.13 Further Instruments or Action.** Each party shall execute and deliver such further instruments and take such other action as may be reasonably necessary in order effectively to discharge, perform or carry out any of the respective obligations and agreements hereunder.

**6.14 GOVERNING LAW. THE VALIDITY AND CONSTRUCTION HEREOF** SHALL BE GOVERNED BY THE LAWS OF THE STATE OF INDIANA.

**6.15 Knowledge of and Notice to MRC.** Any references in this Agreement to the "knowledge" of MRC or "notice" to MRC, or similar phrases, refer only to the actual knowledge of the executive corporate officers of MRC and notice to MRC given pursuant to Section 6.7 hereof.

**6.16 IRC §501(c) (3) Status.** It is the mutual intention of the parties that this Agreement be consistent in all respects with the continuing status of American Eagle under §501(c) (3) of the Code and the continuing qualification of the Tax Exempt Bonds as "qualified 501(c) (3) bonds" within the meaning of Section 145 of the Code and in particular with Revenue Procedure 97-13, as required to be expanded by the Tax Reform Act of 1986. To the extent any provision hereof is inconsistent therewith, such provision is deemed to be amended to the extent necessary to comply therewith.

**6.17 Binding effect; No Third Party Beneficiaries.** This Agreement will apply to, be binding in all respects upon, and inure to the benefit of the parties hereto and their permitted successors and assigns. Nothing expressed or referred to in this Agreement will be construed to give any person or entity other than the parties to this Agreement and their permitted successors and assigns any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement. This Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Agreement and their permitted successors and assigns.

*Signature page follows*

**MEDICAL REHABILITATION  
CENTERS, INC.**

By: \_\_\_\_\_  
Wayne Tush, Vice President

**AMERICAN EAGLE** \_\_\_\_\_<sup>16</sup>

By: \_\_\_\_\_  
Scott Kellman, President

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<sup>16</sup> Name of owning entity: i.e., American Eagle Home Place, LLC; American Eagle Morning Breeze, LLC; or American Eagle Sanders Glen.

## **APPENDIX H**

### **FINANCIAL INFORMATION FOR THE MANAGER**

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**Medical Rehabilitation Centers, Inc.**  
**Consolidated Division Financial Statements**  
as of and for the ten months ended October 31, 2005

**C O N T E N T S**

**Pages**

**Financial Statements:**

Consolidated Balance Sheet 2 & 3

Consolidated Statement of Income 4

**Supplemental Schedules:**

Schedule of Division Balance Sheets 5 & 6

Schedule of Division Statements of Income 7

**Medical Rehabilitation Centers, inc.**  
**Consolidated Balance Sheet**  
October 31, 2005

ASSETS	<u>2005</u>
Current assets:	
Cash and cash equivalents	\$ 73,724
Accounts receivable	2,036,377
Notes receivable, current portion	115,900
Prepaid expenses and other current assets	<u>117,997</u>
Total current assets	<u>2,343,998</u>
Property and equipment, at cost:	
Furniture	46,625
Machinery and equipment	423,937
Transportation equipment	8,934
Leasehold improvements	<u>160,495</u>
Property and equipment	639,991
Less accumulated depreciation	<u>208,328</u>
Total property and equipment, net	<u>431,663</u>
Other assets:	
Notes receivable	1,380,900
Debt issuance costs, net	3,461
Deposits	<u>84,034</u>
Total other assets	<u>1,468,395</u>
Total assets	<u>\$ 4,244,056</u>

**Medical Rehabilitation Centers, Inc.**  
**Consolidated Balance Sheet, Continued**  
October 31, 2005

<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>	<b>2005</b>
Current liabilities:	
Accounts payable	\$ 200,907
Accrued expenses	554,577
Current portion of long-term debt	295,927
Current portion of dividend payable	43,750
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Total current liabilities	1,095,161
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Long-term debt	557,690
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Dividend payable	127,605
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Stockholders' equity:	
Common stock, no par value; authorized 1,500,000 shares; 517,688 shares outstanding in 2004 and 681,750 shares in 2003	425,610
Paid-in capital	38,392
Retained earnings	1,999,598
	<hr/>
Total stockholders' equity	2,463,600
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Total liabilities and stockholders' equity	\$ 4,244,056
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**Medical Rehabilitation Centers, Inc.**  
**Consolidated Statement of Income**  
for the ten months ended October 31, 2005

	<u>2005</u>
Revenues:	
Operating revenues	\$ 10,233,640
Interest income	<u>104,870</u>
Total revenues	<u>10,338,510</u>
Operating expenses:	
Ancillaries	545,808
Activities	89,793
Dietary	516,302
Skilled nursing	3,054,513
Medical services	16,649
Housekeeping	182,265
Laundry	110,912
Social services	131,771
Plant & grounds	443,949
Marketing	864
General & administrative	<u>3,787,307</u>
Total operating expenses	<u>8,880,133</u>
Operating income	<u>1,458,377</u>
Depreciation & amortization	57,953
Interest expense	66,925
Building lease expense	<u>481,694</u>
	<u>606,572</u>
Net income	<u><u>\$ 851,805</u></u>

**Medical Rehabilitation Centers, Inc.**  
**Schedule of Division Balance Sheets**

October 31, 2005

	Medical Rehabilitation Centers, Inc.	Lexington Healthcare, LLC	Eliminations	MRC, Inc.
<b>ASSETS</b>				
Current assets:				
Cash and cash equivalents	\$ 50,178	\$ 23,546	\$ -	\$ 73,724
Accounts receivable	826,247	1,210,130	-	2,036,377
Notes receivable, current portion	115,900	-	-	115,900
Prepaid expenses and other current assets	36,943	81,054	-	117,997
Total current assets	1,029,268	1,314,730	-	2,343,998
Property and equipment, at cost:				
Furniture	42,531	4,094	-	46,625
Machinery and equipment	345,698	78,239	-	423,937
Transportation equipment	8,934	-	-	8,934
Leasehold improvements	31,726	128,769	-	160,495
Property and equipment	428,889	211,102	-	639,991
Less accumulated depreciation	195,914	12,414	-	208,328
Total property and equipment, net	232,975	198,688	-	431,663
Other assets:				
Notes receivable	1,380,900	-	-	1,380,900
Investment - Lexington Healthcare, LLC	157,200	-	(157,200)	-
Debt issuance costs, net	-	3,461	-	3,461
Deposits	434	83,600	-	84,034
Total other assets	1,538,534	87,061	(157,200)	1,468,395
Total assets	\$ 2,800,777	\$ 1,600,479	\$ (157,200)	\$ 4,244,056

**Medical Rehabilitation Centers, Inc.**  
**Schedule of Division Balance Sheets, Continued**  
October 31, 2005

	<b>Medical Rehabilitation Centers, Inc.</b>	<b>Lexington Healthcare, LLC</b>	<b><u>Eliminations</u></b>	<b><u>MRC, Inc.</u></b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>				
Current liabilities:				
Accounts payable	\$ 34,275	\$ 166,632	\$ -	\$ 200,907
Accrued expenses	256,226	298,351	-	554,577
Current portion of long-term debt	79,670	216,257	-	295,927
Current portion of dividend payable	43,750	-	-	43,750
	<hr/>	<hr/>	<hr/>	<hr/>
Total current liabilities	413,921	681,240	-	1,095,161
	<hr/>	<hr/>	<hr/>	<hr/>
Long-term debt	557,690	-	-	557,690
	<hr/>	<hr/>	<hr/>	<hr/>
Dividend payable	127,605	-	-	127,605
	<hr/>	<hr/>	<hr/>	<hr/>
Stockholders' equity:				
Common stock	425,610	-	-	425,610
Members' equity	-	157,200	(157,200)	-
Paid-in capital	38,392	-	-	38,392
Retained earnings (deficit)	1,721,531	278,067	-	1,999,598
Intercompany (receivable) payable	(483,972)	483,972	-	-
	<hr/>	<hr/>	<hr/>	<hr/>
Total stockholders' equity	1,701,561	919,239	(157,200)	2,463,600
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Total liabilities and stockholders' equity	\$ 2,800,777	\$ 1,600,479	\$ (157,200)	\$ 4,244,056
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**Medical Rehabilitation Centers, Inc.**  
**Schedule of Division Statements of Income**

for the ten months ended October 31, 2005

	<u>Medical Rehabilitation Centers, Inc.</u>	<u>Lexington Healthcare, LLC</u>	<u>Eliminations</u>	<u>MRC, Inc.</u>
Revenues:				
Operating revenues	\$ 3,422,749	\$ 6,810,891	\$ -	\$10,233,640
Interest income	104,870	-	-	104,870
Total revenues	<u>3,527,619</u>	<u>6,810,891</u>	<u>-</u>	<u>10,338,510</u>
Operating expenses:				
Ancillaries	-	545,808	-	545,808
Activities	-	89,793	-	89,793
Dietary	-	516,302	-	516,302
Skilled nursing	-	3,054,513	-	3,054,513
Medical services	-	16,649	-	16,649
Housekeeping	-	182,265	-	182,265
Laundry	-	110,912	-	110,912
Social services	-	131,771	-	131,771
Plant & grounds	42,689	401,260	-	443,949
Marketing	864	-	-	864
General & administrative	2,750,033	1,037,274	-	3,787,307
Total operating expenses	<u>2,793,586</u>	<u>6,086,547</u>	<u>-</u>	<u>8,880,133</u>
Operating income	<u>734,033</u>	<u>724,344</u>	<u>-</u>	<u>1,458,377</u>
Depreciation & amortization	45,224	12,729	-	57,953
Interest expense	51,377	15,548	-	66,925
Building lease expense	63,694	418,000	-	481,694
	<u>160,295</u>	<u>446,277</u>	<u>-</u>	<u>606,572</u>
Net income	<u>\$ 573,738</u>	<u>\$ 278,067</u>	<u>\$ -</u>	<u>\$ 851,805</u>

**Medical Rehabilitation Centers, Inc.**  
**Consolidated Balance Sheets**  
**December 31, 2004 and 2003**

ASSETS	<u>2004</u>	<u>2003</u>
<b>Current assets</b>		
Cash and cash equivalents	\$ 784,640	\$ 1,003,245
Accounts receivable	558,108	532,093
Notes receivable, current portion	107,700	100,500
Prepaid expenses and other current assets	<u>146,029</u>	<u>28,445</u>
Total current assets	<u>1,596,477</u>	<u>1,664,283</u>
<b>Property and equipment, at cost</b>		
Furniture	51,850	19,807
Machinery and equipment	244,918	156,293
Transportation equipment	8,934	8,934
Leasehold improvements	<u>23,608</u>	<u>23,608</u>
Property and equipment	329,310	208,642
Less accumulated depreciation	<u>151,127</u>	<u>116,039</u>
Total property and equipment, net	<u>178,183</u>	<u>92,603</u>
<b>Other assets</b>		
Notes receivable	1,486,500	1,657,445
Deposits	<u>84,034</u>	<u>434</u>
Total other assets	<u>1,570,534</u>	<u>1,657,879</u>
Total assets	<u><u>\$ 3,345,194</u></u>	<u><u>\$ 3,414,765</u></u>



**Medical Rehabilitation Centers, Inc.**  
**Consolidated Balance Sheets**  
**December 31, 2004 and 2003**

<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>	<b>2004</b>	<b>2003</b>
<b>Current liabilities</b>		
Accounts payable	\$ 26,386	\$ 5,820
Accrued expenses	278,171	152,672
Current portion of long-term debt	79,670	-
Current portion of dividend payable	43,750	43,750
Total current liabilities	427,977	202,242
Long-term debt	637,360	-
Dividend payable	164,063	207,813
<b>Stockholders' equity</b>		
Common stock, no par value; authorized 1,500,000 shares; 454,688 shares issued and outstanding in 2004 and 618,750 shares in 2003	425,610	579,180
Paid-in capital	38,392	681,522
Retained earnings	1,651,792	1,744,008
Total stockholders' equity	2,115,794	3,004,710
Total liabilities and stockholders' equity	\$ 3,345,194	\$ 3,414,765

**Medical Rehabilitation Centers, Inc.**  
**Consolidated Statements of Net Income**  
**for the years ended December 31, 2004 and 2003**

	<u>2004</u>	<u>2003</u>
<b>Revenues</b>		
Management fees	\$ 3,520,201	\$ 2,637,600
Guarantee fees	-	100,000
Interest income	151,180	152,949
	<u>3,671,381</u>	<u>2,890,549</u>
<b>Operating expenses</b>		
Auto expenses	72,728	53,605
Contract services	20,739	1,620
Employee benefits	403,641	284,012
Equipment maintenance and supplies	15,297	4,083
Fees - consultants	58,446	59,122
Fees - legal and accounting	43,003	36,318
Insurance	38,159	40,734
Office rent	75,184	71,807
Organizational costs	33,518	-
Miscellaneous	33,239	20,904
Postage	14,480	11,553
Recruiting expense	19,789	-
Salaries and wages	1,814,315	1,370,960
Supplies - office	43,485	20,963
Taxes - license and fees	27,686	25,516
Taxes - payroll	129,824	77,701
Telephone	21,257	15,929
Travel, seminars and dues	140,890	87,085
	<u>3,005,680</u>	<u>2,181,912</u>
<b>Total operating expenses</b>		
	<u>3,005,680</u>	<u>2,181,912</u>
Depreciation	35,087	21,517
Interest expense	57,828	-
	<u>3,098,595</u>	<u>2,203,429</u>
<b>Total expenses</b>		
	<u>3,098,595</u>	<u>2,203,429</u>
<b>Net income</b>	<u>\$ 572,786</u>	<u>\$ 687,120</u>

**Medical Rehabilitation Centers, Inc.**  
**Consolidated Statements of Stockholders' Equity**  
**for the years ended December 31, 2004 and 2003**

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	<u>Common Stock</u>		<u>Paid-in</u>	<u>Retained</u>	<u>Total</u>
	<u>Shares</u>	<u>Amount</u>	<u>Capital</u>	<u>Earnings</u>	<u>Stockholders'</u>
					<u>Equity</u>
Balance, December 31, 2002	\$ 618,750	\$ 579,180	\$ 681,522	\$ 1,771,318	\$ 3,032,020
Dividends paid				(714,430)	(714,430)
Net income				687,120	687,120
Balance, December 31, 2003	618,750	579,180	681,522	1,744,008	3,004,710
Redemptions	(164,062)	(153,570)	(643,130)		(796,700)
Dividends paid				(665,002)	(665,002)
Net income				572,786	572,786
Balance, December 31, 2004	<u>\$ 454,688</u>	<u>\$ 425,610</u>	<u>\$ 38,392</u>	<u>\$ 1,651,792</u>	<u>\$ 2,115,794</u>

**Medical Rehabilitation Centers, Inc.**  
**Consolidated Statements of Cash Flows**  
**for the years ended December 31, 2004 and 2003**

	<u>2004</u>	<u>2003</u>
<b>Cash flows from operating activities</b>		
Net income	\$ 572,786	\$ 687,120
<b>Adjustments to reconcile net income to net cash provided by operating activities</b>		
Depreciation and amortization	35,088	21,517
Change in operating assets and liabilities:		
Accounts receivable	(26,015)	14,544
Prepaid expenses and other current assets	(117,584)	4,422
Accounts payable	20,566	(5,230)
Accrued expenses	112,132	(18,488)
Net cash provided by operating activities	<u>596,973</u>	<u>703,885</u>
<b>Cash flows from investing activities</b>		
Repayment of notes receivable	163,745	100,600
Increase in notes receivable	-	(53,845)
Purchase of property and equipment	(107,301)	(39,903)
Refund of deposit	(83,600)	-
Net cash (used in) provided by investing activities	<u>(27,156)</u>	<u>6,852</u>
<b>Cash flows from financing activities</b>		
Payment on long-term debt	(79,670)	-
Payment on dividend payable	(43,750)	(43,750)
Dividends paid	(665,002)	(714,430)
Net cash used in financing activities	<u>(788,422)</u>	<u>(758,180)</u>
Net decrease in cash and cash equivalents	(218,605)	(47,443)
Cash and cash equivalents at beginning of year	1,003,245	1,050,688
Cash and cash equivalents at end of year	<u>\$ 784,640</u>	<u>\$ 1,003,245</u>
<b>Supplemental disclosures of cash flow information</b>		
Interest paid	<u>\$ 15,156</u>	<u>\$ -</u>
<b>Non-cash investing and financing activities</b>		
Equipment acquired	<u>\$ 13,367</u>	<u>\$ -</u>
Stock redemption (Note 3)	<u>\$ 796,700</u>	<u>\$ -</u>

**Medical Rehabilitation Centers, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2004 and 2003**

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**1. Summary of Significant Accounting Policies**

**General**

Medical Rehabilitation Centers Inc. (MRC) was formed in June 1992 as a successor to affiliated entities that commenced business operations in 1989. MRC is a health care management company and revenues are principally generated through contracted management services to eight nursing facilities owned by Hoosier Care, Inc. (Hoosier) and Hoosier Care II, Inc. (Hoosier II), two unrelated not-for-profit corporations. On November 1, 2003, MRC agreed to manage three additional nursing facilities owned by affiliates of American Eagle LifeCare Corporation (American), another unrelated not-for-profit entity. MRC also provides non-contracted management services to three retirement communities controlled by a for-profit entity, Westfield Associates, LLC (Westfield), owned by three principal stockholders of MRC. On September 28, 2004, MRC formed Lexington Healthcare, LLC (Lexington) and became the sole member of the limited liability company. On December 21, 2004 Lexington entered into an agreement to operate Allis Care Center, a 152 bed skilled nursing facility, effective January 1, 2005.

**Property and Equipment**

Property and equipment are stated at cost less accumulated depreciation. Depreciation is computed by the straight-line method. Leasehold improvements are depreciated over 40 years or the term of the lease, whichever is shorter. Other assets are depreciated over the estimated useful lives of the assets ranging from 5 - 7 years. Maintenance, repairs and minor replacements are charged to expense as incurred; major improvements are capitalized. The cost of assets sold or retired and the related accumulated depreciation are eliminated from the accounts and any resulting gain or loss is included in income.

**Income Taxes**

Effective April 1, 1997, MRC with the consent of its stockholders elected to be taxed as an S Corporation. In lieu of payment of income taxes by MRC, the stockholders of an S corporation are taxed on their proportionate share of the corporation's taxable income.

Lexington was formed as a Limited Liability Company; therefore, Lexington pays no income taxes as the members report as taxable income or loss their respective share of Lexington's income or loss.

**Cash and Cash Equivalents**

For purposes of reporting cash flows, MRC has defined cash and cash equivalents as cash and demand balances due from banks and interest bearing deposits with other financial institutions.

**Medical Rehabilitation Centers, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2004 and 2003**

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**Management Estimates**

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates used in the preparation of the financial statements.

**Guarantee Fee**

Effective July 7, 1999, MRC entered into a two year agreement to guarantee a Hoosier line of credit totaling \$4,000,000. On July 1, 2001 the Hoosier line of credit financing was renewed and MRC agreed to continue its guarantee for a fee of \$200,000 to be paid in equal monthly installments during the 24 month term of the financing.

On December 22, 2003, Hoosier refinanced this line of credit with General Electric Capital Corporation. The refinanced line of credit does not require an MRC guarantee, and MRC will receive no future guarantee fees from Hoosier.

**Recently Issued Accounting Pronouncements**

On November 7, 2003, the Financial Accounting Standards Board ("FASB") issued FASB Staff Position ("FSP") No. FAS 150-3 - "Effective Date, Disclosures, and Transition for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests under SFAS 150, Accounting for Certain Financial Instruments with Characteristics of Both Liabilities and Equity." This FSP defers the effective date of SFAS 150, in certain situations, for mandatorily redeemable financial instruments issued by nonpublic entities that are not Securities and Exchange Commission (SEC) registrants indefinitely pending further Board action.

In January 2003, the Financial Accounting Standards Board (the "FASB") issued FASB Interpretation No. 46 (FIN 46), *"Consolidation of Variable Interest Entities, an interpretation of ARB No. 51."* The primary objectives of FIN 46 are to provide guidance on the identification of entities for which control is achieved through means other than through voting rights ("Variable interest entities" or VIEs) and how to determine when and which business enterprise should consolidate the VIE (the primary beneficiary). The new model for consolidation applies to an entity in which either (1) the equity investors (if any) do not have a controlling financial interest or (2) the equity investment at risk is insufficient to finance that entity's activities without receiving additional subordinated financial support from other parties. In addition, FIN 46 requires that both the primary beneficiary and all other enterprises with a significant variable interest in a VIE make additional disclosures.

**Medical Rehabilitation Centers, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2004 and 2003**

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In December 2003, FIN 46 was replaced by FIN 46-R which clarifies the application of ARB No. 51 to certain entities in which equity investors do not have the characteristics of a controlling financial interest or do not have significant equity at risk for the entity to finance its activities without additional subordinated financial support. For entities created before December 31, 2003, non-public entities will not be required to adopt FIN 46, but will be required to adopt FIN 46-R as of the beginning of the first interim or annual reporting period beginning after December 15, 2004. For entities created after December 31, 2003, entities will apply the provisions of FIN 46-R as of the date they first become involved with the respective entities. The Company has not yet determined the effect on their financial statements of adopting FIN 46-R.

**2. Notes Receivable**

	<u>2004</u>	<u>2003</u>
Term note	\$ 1,594,200	\$ 1,704,100
Revolving line of credit	-	53,845
	<u>1,594,200</u>	<u>1,757,945</u>
Less current portion	<u>107,700</u>	<u>100,500</u>
	<u>\$ 1,486,500</u>	<u>\$ 1,657,445</u>

An initial term note was originated in 1989 pursuant to an operating deficit agreement whereby the predecessor to MRC was to provide working capital for Hoosier. On June 1, 1999, MRC combined \$1,654,773 of noninterest bearing accounts receivable with the unpaid 1989 note balance of \$445,227, and executed a new subordinated term note in the amount of \$2,100,000. The 1999 note bears interest at 8% per annum and matures on June 1, 2014. Principal and interest are payable monthly in amounts varying from \$19,435 to \$20,844. Such payments are subordinated to the payment of Hoosier's debt service and certain financial covenants.

The 1999 note is collateralized by a second mortgage lien on and security interest in land, buildings, structures and improvements owned by Hoosier and its subordinate entity, Hoosier II. MRC subsequently entered into a Term Note Subordination Agreement which provides that MRC may not accelerate or exercise any remedies under the Term Note or the Second Mortgage without the consent of a majority of holders of the first mortgage.

**Medical Rehabilitation Centers, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2004 and 2003**

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On November 4, 2003 MRC agreed to loan working capital to affiliates of American. The unsecured indebtedness is in the form of a revolving credit loan and bears interest at the rate of eight percent. As of December 31, 2005, all principal and interest then unpaid shall be due and payable. American may use all or any part of the credit provided by this note at any time before the maturity date. American's affiliates may borrow, repay and reborrow and there is no limit on the number of advances against this note so long as the total unpaid principal outstanding does not exceed \$500,000. MRC's obligation to make advances terminates on December 31, 2005. Amounts outstanding were \$0 and \$53,845 as of December 31, 2004 and 2003, respectively.

The scheduled maturity of notes receivable is as follows:

2005	\$ 107,700
2006	127,800
2007	137,900
2008	149,400
2009	162,000
Thereafter	909,400
	<u>\$ 1,594,200</u>

**3. Long-Term Debt**

MRC maintains a \$600,000 line of credit which is available for working capital deficiencies. As of December 31, 2004 and 2003 the line was unused.

During 2004, MRC issued promissory notes to two MRC shareholders in the amount of \$796,700 in conjunction with the mandatory redemption of common shares of these two shareholders (see Note 7). The promissory notes are payable in ten equal annual principal installments of \$79,670 plus interest at 8% per annum. As of December 31, 2004, the balance of the notes is \$717,030. Accrued interest expense as of December 31, 2004 is \$42,672 and is included in accrued expenses on the accompanying balance sheets.

The scheduled maturities as of December 31, 2004 are as follows:

2005	\$ 79,670
2006	79,670
2007	79,670
2008	79,670
2009	79,670
Thereafter	318,680
	<u>\$ 717,030</u>



**Medical Rehabilitation Centers, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2004 and 2003**

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**4. Dividend Payable**

On October 12, 1989, a dividend totaling \$1,500,000 was declared to stockholders of record as of October 13, 1989. Payment of the distribution was conditional on repayment of all loans to Hoosier and the release of a \$1,500,000 certificate of deposit which was maintained as collateral on a line of credit. These conditions were met in June 1992.

On December 28, 1992, MRC issued 843.75 shares of preferred stock, in exchange for cancellation, satisfaction and discharge of \$843,750 of the dividend payable. The remaining balance of the indebtedness, \$656,250, was owed to a former stockholder and repayment began October 1, 1994, in equal monthly installments of \$3,646 for fifteen years without interest. The scheduled maturities of the dividend payable as of December 31, 2004 were as follows:

2005	\$ 43,750
2006	43,750
2007	43,750
2008	43,750
2009	32,813
	<u>\$ 207,813</u>

**5. Concentration**

MRC's earnings consist principally of revenues derived from managing nursing facilities owned by Hoosier, Hoosier II and American, and three retirement communities owned by Westfield. Accounts receivable for management services as of December 31, 2004 and 2003 were as follows:

	<u>2004</u>	<u>2003</u>
Hoosier Care, Inc.	\$ 265,890	\$ 270,755
Hoosier Care II, Inc.	156,437	183,838
American Eagle LifeCare Corporation	102,230	77,500
	<u>\$ 524,557</u>	<u>\$ 532,093</u>

**Medical Rehabilitation Centers, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2004 and 2003**

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Management revenues from Hoosier, Hoosier II, American and Westfield for the years ended December 31, 2004 and 2003 were as follows:

	<u>2004</u>	<u>2003</u>
Hoosier Care, Inc.	\$ 1,630,200	\$ 1,504,800
Hoosier Care II, Inc.	816,000	889,800
American Eagle LifeCare Corporation	930,001	155,000
Westfield Associates, LLC	144,000	88,000
	<u>\$ 3,520,201</u>	<u>\$ 2,637,600</u>

**6. Profit Sharing Plan**

MRC has an Employees Profit-sharing Plan which provides for annual company contributions in amounts determined by the Board of Directors. The Plan covers all employees. Employees may elect to contribute up to 15% (maximum \$13,000 in 2004 and \$12,000 in 2003 for all participating employees, plus an additional \$3,000, in 2004, and \$2,000 in 2003 for those ages 50 or older by the end of the tax year) of their pretax earnings to the Plan, and MRC matches the first 5%. MRC's contributions for the years ended December 31, 2004 and 2003 totaled \$97,603 and \$83,709, respectively.

**7. Stockholders' Equity**

MRC has a Shareholders Buy-Sell Agreement, dated March 31, 1997, whereby the termination of shareholder employment requires a mandatory redemption of common shares by MRC. During 2004, two former shareholders retired and terminated employment with MRC. In accordance with the Shareholders Buy-Sell Agreement above and the Stock Redemption Agreements entered into during 2004, MRC redeemed a total of 164,062 shares. The total share redemption price of \$796,700 was based on book value at the time the shares were redeemed. See Note 3 for terms of payment.

**Medical Rehabilitation Centers, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2004 and 2003**

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**8. Subsequent Event**

On December 21, 2004 Lexington Healthcare, LLC entered into an operating lease to operate Allis Care Center, a 152 bed skilled nursing facility, effective January 1, 2005. MRC guarantees all obligations and liabilities of tenant, Lexington Healthcare, LLC, under the terms of the lease. However, MRC's obligation and maximum liability is limited in the aggregate to \$900,000, and such guarantee shall terminate on December 31, 2007. The lease expires on January 1, 2015. Future minimum rental payments for each of the following years are as follows:

2005	\$ 501,600
2006	501,600
2007	501,600
2008	501,600
2009	501,600
Thereafter	<u>2,508,000</u>
	<u>\$ 5,016,000</u>

**Medical Rehabilitation Centers, Inc.**  
**Consolidating Balance Sheet**  
**December 31, 2004**

ASSETS	Medical Rehabilitation Centers, Inc.	Lexington Healthcare, LLC	Eliminations	MRC, Inc.
<b>Current assets</b>				
Cash and cash equivalents	\$ 703,764	\$ 80,876	-	\$ 784,640
Accounts receivable	558,108	-	-	558,108
Notes receivable, current portion	107,700	-	-	107,700
Prepaid expenses and other current assets	67,257	78,772	-	146,029
Intercompany receivable/(payable)	1,872	(1,872)	-	-
Total current assets	<u>1,438,701</u>	<u>157,776</u>	<u>-</u>	<u>1,596,477</u>
<b>Property and equipment, at cost</b>				
Furniture	29,350	22,500	-	51,850
Machinery and equipment	244,918	-	-	244,918
Transportation equipment	8,934	-	-	8,934
Leasehold improvements	23,608	-	-	23,608
Property and equipment	306,810	22,500	-	329,310
Less accumulated depreciation	151,127	-	-	151,127
Total property and equipment, net	<u>155,683</u>	<u>22,500</u>	<u>-</u>	<u>178,183</u>
<b>Other assets</b>				
Notes receivable	1,486,500	-	-	1,486,500
Investment - Lexington Healthcare, LLC	157,200	-	(157,200)	-
Deposits	434	83,600	-	84,034
Total other assets	<u>1,644,134</u>	<u>83,600</u>	<u>(157,200)</u>	<u>1,570,534</u>
Total assets	<u>\$ 3,238,518</u>	<u>\$ 263,876</u>	<u>\$ (157,200)</u>	<u>\$ 3,345,194</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>				
<b>Current liabilities</b>				
Accounts payable	\$ 26,386	\$ -	-	\$ 26,386
Accrued expenses	171,495	106,676	-	278,171
Current portion of long-term debt	79,670	-	-	79,670
Current portion of dividend payable	43,750	-	-	43,750
Total current liabilities	<u>321,301</u>	<u>106,676</u>	<u>-</u>	<u>427,977</u>
Long-term debt	<u>637,360</u>	<u>-</u>	<u>-</u>	<u>637,360</u>
Dividend payable	<u>164,063</u>	<u>-</u>	<u>-</u>	<u>164,063</u>
<b>Stockholders' equity:</b>				
Common stock	425,610	-	-	425,610
Members' equity	-	190,718	(190,718)	-
Paid-in capital	38,392	-	-	38,392
Retained earnings (deficit)	1,651,792	(33,518)	33,518	1,651,792
Total stockholders' equity	<u>2,115,794</u>	<u>157,200</u>	<u>(157,200)</u>	<u>2,115,794</u>
Total liabilities and stockholders' equity	<u>\$ 3,238,518</u>	<u>\$ 263,876</u>	<u>\$ (157,200)</u>	<u>\$ 3,345,194</u>

**Medical Rehabilitation Centers, Inc.**  
**Consolidating Statement of Income**  
**for the Year Ended December 31, 2004**

	<b>Medical Rehabilitation Centers, Inc.</b>	<b>Lexington Healthcare, LLC</b>	<b>Eliminations</b>	<b>MRC, Inc.</b>
<b>Revenues</b>				
Management fees	\$ 3,520,201	-	-	\$ 3,520,201
Guarantee fee	-	-	-	-
Interest income	151,180	-	-	151,180
Total revenues	3,671,381	-	-	3,671,381
<b>Operating expenses</b>				
Auto expenses	72,728	-	-	72,728
Contract services	20,739	-	-	20,739
Employee benefits	403,641	-	-	403,641
Equipment maintenance and supplies	15,297	-	-	15,297
Fees - consultants	58,446	-	-	58,446
Fees - legal and accounting	43,003	-	-	43,003
Insurance	38,159	-	-	38,159
Office rent	75,184	-	-	75,184
Organization costs	-	\$ 33,518	-	33,518
Miscellaneous	33,239	-	-	33,239
Postage	14,480	-	-	14,480
Recruiting expense	19,789	-	-	19,789
Salaries and wages	1,814,315	-	-	1,814,315
Supplies - office	43,485	-	-	43,485
Taxes - license and fees	27,686	-	-	27,686
Taxes - payroll	129,824	-	-	129,824
Telephone	21,257	-	-	21,257
Travel, seminars and dues	140,890	-	-	140,890
Total operating expenses	2,972,162	33,518	-	3,005,680
Depreciation	35,087	-	-	35,087
Interest expense	57,828	-	-	57,828
Total expenses	3,065,077	33,518	-	3,098,595
Loss on investment in Lexington Healthcare	(33,518)	-	33,518	-
Net income (loss)	\$ 572,786	\$ (33,518)	\$ 33,518	\$ 572,786

**Medical Rehabilitation Centers, Inc.**  
**Consolidating Statement of Cash Flows**  
**for the Year Ended December 31, 2004**

	Medical Rehabilitation Centers, Inc.	Lexington Healthcare, LLC	Eliminations	MRC, Inc.
<b>Cash flows from operating activities</b>				
Net income (loss)	\$ 606,304	\$ (33,518)	\$ -	\$ 572,786
<b>Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities</b>				
Depreciation and amortization	35,088	-	-	35,088
<b>Change in operating assets and liabilities</b>				
Accounts receivable	(26,015)	-	-	(26,015)
Prepaid expenses and other current assets	(38,812)	(78,772)	-	(117,584)
Accounts payable	20,566	-	-	20,566
Accrued expenses	5,456	106,676	-	112,132
Net cash (used in) provided by operating activities	602,587	(5,614)	-	596,973
<b>Cash flows from investing activities</b>				
Repayment of notes receivable	163,745	-	-	163,745
Purchase of property and equipment	(84,801)	(22,500)	-	(107,301)
Increase in deposits	-	(83,600)	-	(83,600)
Investment (to) from Lexington Healthcare, LLC	(157,200)	157,200	-	-
Net cash (used in) provided by investing activities	(78,256)	51,100	-	(27,156)
<b>Cash flows from financing activities</b>				
Payment on long-term debt	(79,670)	-	-	(79,670)
Payment on dividend payable	(43,750)	-	-	(43,750)
Dividends paid	(665,002)	-	-	(665,002)
Intercompany (receivable)/payable	(1,872)	1,872	-	-
Net cash (used in) provided by financing activities	(790,294)	1,872	-	(788,422)
Net (decrease) increase in cash and cash equivalents	(265,963)	47,358	-	(218,605)
Cash and cash equivalents at beginning of year	1,003,245	-	-	1,003,245
Cash and cash equivalents at end of year	\$ 737,282	\$ 47,358	\$ -	\$ 784,640
<b>Supplemental disclosures of cash flow information</b>				
Interest paid	\$ 15,156	-	-	\$ 15,156
<b>Non-cash investing and financing activities</b>				
Equipment acquired	\$ 13,367	-	-	\$ 13,367
Stock redemption	\$ 796,700	-	-	\$ 796,700

**Medical Rehabilitation Centers, Inc.****Balance Sheets***December 31, 2003 and 2002*

ASSETS	2003	2002
Current assets:		
Cash and cash equivalents	\$ 1,003,245	\$ 1,050,688
Accounts receivable	532,093	546,637
Notes receivable, current portion	100,500	92,000
Prepaid expenses and other current assets	28,445	32,867
Total current assets	1,664,283	1,722,192
Property and equipment, at cost:		
Furniture	19,807	19,807
Machinery and equipment	156,293	128,365
Transportation equipment	8,934	8,934
Leasehold improvements	23,608	23,608
Property and equipment	208,642	180,714
Less accumulated depreciation	116,039	106,497
Total property and equipment, net	92,603	74,217
Other assets:		
Notes receivable	1,657,445	1,712,700
Deposits	434	434
Total other assets	1,657,879	1,713,134
Total assets	\$ 3,414,765	\$ 3,509,543

**Medical Rehabilitation Centers, Inc.****Balance Sheets, Continued***December 31, 2003 and 2002*

<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>	<b>2003</b>	<b>2002</b>
Current liabilities:		
Accounts payable	\$ 5,820	\$ 11,050
Accrued expenses	152,672	171,160
Current portion of dividend payable	43,750	43,750
Total current liabilities	202,242	225,960
Dividend payable	207,813	251,563
Stockholders' equity:		
Common stock, no par value; authorized 1,500,000 shares; 618,750 shares issued and outstanding	579,180	579,180
Paid-in capital	681,522	681,522
Retained earnings	1,744,008	1,771,318
Total stockholders' equity	3,004,710	3,032,020
Total liabilities and stockholders' equity	\$ 3,414,765	\$ 3,509,543



**Medical Rehabilitation Centers, Inc.****Statements of Net Income***for the years ended December 31, 2003 and 2002*

	<u>2003</u>	<u>2002</u>
Revenues:		
Management fees	\$ 2,637,600	\$ 2,399,400
Guarantee fees	100,000	100,000
Interest income	152,949	157,803
	<u>2,890,549</u>	<u>2,657,203</u>
Total revenues		
Operating expenses:		
Auto expenses	53,605	45,949
Employee benefits	284,012	246,444
Fees - consultants	59,122	41,565
Fees - legal and accounting	36,318	35,107
Insurance	40,734	31,696
Office rent	71,807	71,397
Miscellaneous	38,160	37,392
Salaries and wages	1,370,960	1,314,373
Supplies - office	20,963	23,170
Taxes - license and fees	25,516	14,257
Taxes - payroll	77,701	71,174
Telephone	15,929	14,696
Travel, seminars and dues	87,085	83,336
	<u>2,181,912</u>	<u>2,030,556</u>
Total operating expenses		
Depreciation	21,517	19,240
	<u>2,203,429</u>	<u>2,049,796</u>
Total expenses		
Net income	<u>\$ 687,120</u>	<u>\$ 607,407</u>

**Medical Rehabilitation Centers, Inc.**  
**Statements of Stockholders' Equity**  
*for the years ended December 31, 2003 and 2002*

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	<u>Common Stock</u>		<u>Paid-in</u>	<u>Retained</u>	<u>Total</u>
	<u>Shares</u>	<u>Amount</u>	<u>Capital</u>	<u>Earnings</u>	<u>Stockholders'</u>
					<u>Equity</u>
Balance, December 31, 2001	681,750	\$ 579,180	\$ 681,522	\$ 1,767,999	\$ 3,028,701
Dividends paid				(604,088)	(604,088)
Net income				607,407	607,407
Balance, December 31, 2002	681,750	579,180	681,522	1,771,318	3,032,020
Dividends paid				(714,430)	(714,430)
Net income				687,120	687,120
Balance, December 31, 2003	<u>681,750</u>	<u>\$ 579,180</u>	<u>\$ 681,522</u>	<u>\$ 1,744,008</u>	<u>\$ 3,004,710</u>

**Medical Rehabilitation Centers, Inc.****Statements of Cash Flows***for the years ended December 31, 2003 and 2002*

	<u>2003</u>	<u>2002</u>
Cash flows from operating activities:		
Net income	\$ 687,120	\$ 607,407
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	21,517	19,240
Change in operating assets and liabilities:		
Accounts receivable	14,544	97
Prepaid expenses and other current assets	4,422	(5,800)
Accounts payable	(5,230)	(21,478)
Accrued expenses	(18,488)	37,787
Net cash provided by operating activities	<u>703,885</u>	<u>637,253</u>
Cash flows from investing activities:		
Repayment of notes receivable	100,600	93,100
Increase in notes receivable	(53,845)	-
Purchase of property and equipment	(39,903)	(35,427)
Refund of deposit	-	357
Net cash provided by investing activities	<u>6,852</u>	<u>58,030</u>
Cash flows from financing activities:		
Payment on dividend payable	(43,750)	(43,750)
Dividends paid	(714,430)	(604,088)
Net cash used in financing activities	<u>(758,180)</u>	<u>(647,838)</u>
Net (decrease) increase in cash and cash equivalents	(47,443)	47,445
Cash and cash equivalents at beginning of year	<u>1,050,688</u>	<u>1,003,243</u>
Cash and cash equivalents at end of year	<u>\$ 1,003,245</u>	<u>\$ 1,050,688</u>

## Medical Rehabilitation Centers, Inc.

### Notes to Financial Statements

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#### 1. Summary of Significant Accounting Policies:

**General:** Medical Rehabilitation Centers, Inc. (MRC) was formed in June 1992 as a successor to affiliated entities that commenced business operations in 1989. MRC is a health care management company and revenues are principally generated through contracted management services to eight nursing facilities owned by Hoosier Care, Inc. (Hoosier) and Hoosier Care II, Inc. (Hoosier II), unrelated not-for-profit corporations. On November 1, 2003, MRC agreed to manage three additional nursing facilities owned by affiliates of American Eagle LifeCare Corporation (American), another unrelated not-for-profit entity. MRC also provides non-contracted management services to three retirement communities controlled by a for-profit entity, Westfield Associates, LLC (Westfield), owned by four principal stockholders of MRC.

**Property and Equipment:** Property and equipment are stated at cost less accumulated depreciation. Depreciation is computed by the straight-line method. Leasehold improvements are depreciated over 40 years or the term of the lease, whichever is shorter. Other assets are depreciated over the estimated useful lives of the assets ranging from 5-7 years. Maintenance, repairs and minor replacements are charged to expense as incurred; major improvements are capitalized. The cost of assets sold or retired and the related accumulated depreciation are eliminated from the accounts and any resulting gain or loss is included in income.

**Income Taxes:** Effective April 1, 1997, MRC with the consent of its stockholders elected to be taxed as an S Corporation. In lieu of payment of income taxes by MRC, the stockholders of an S corporation are taxed on their proportionate share of the Corporation's taxable income.

**Cash and Cash Equivalents:** For purposes of reporting cash flows, MRC has defined cash and cash equivalents as cash and demand balances due from banks and interest bearing deposits with other financial institutions.

**Reclassifications:** Certain presentations of accounts previously reported have been reclassified in these financial statements. Such reclassifications had no effect on net income or retained earnings as previously reported.

**Management Estimates:** The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates used in the preparation of the financial statements.

**Guarantee Fee:** Effective July 7, 1999, MRC entered into a two year agreement to guarantee a Hoosier line of credit totaling \$4,000,000. On July 1, 2001 the Hoosier line of credit financing was renewed and MRC agreed to continue its guarantee for a fee of \$200,000 to be paid in equal monthly installments during the 24 month term of the financing. As of December 31, 2002, \$1,650,000 was owed by Hoosier on this financing.

**Medical Rehabilitation Centers, Inc.**  
**Notes to Financial Statements, Continued**

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**1. Summary of Significant Accounting Policies, continued:**

**Guarantee Fee, continued:**

On December 22, 2003, Hoosier refinanced this line of credit with General Electric Capital Corporation. The refinanced line of credit does not require an MRC guarantee, and MRC will receive no future guarantee fees from Hoosier.

**2. Notes Receivable and Related Party Transactions:**

	<u>2003</u>	<u>2002</u>
Term loan	\$ 1,704,100	\$ 1,804,700
Revolving line of credit	53,845	-
	<u>1,757,945</u>	<u>1,804,700</u>
Less current portion	<u>100,500</u>	<u>92,000</u>
	<u>\$ 1,657,445</u>	<u>\$ 1,712,700</u>

An initial term loan originated in 1989 pursuant to an operating deficit agreement whereby the predecessor to MRC was to provide working capital for Hoosier. The term loan bore interest at the rate of seven percent (7%) per annum and was to mature on June 30, 2002. Principal and interest payments of \$13,747 were due monthly.

On June 1, 1999, MRC combined \$1,654,773 of non-interest bearing accounts receivable with the unpaid 1989 note balance of \$445,227, and executed a new subordinated term note in the amount of \$2,100,000. The 1999 note bears interest at 8% per annum and matures on June 1, 2014. Principal and interest are payable monthly in amounts varying from \$19,435 to \$20,844. Such payments are subordinated to the payment of Hoosier's debt service and certain financial covenants.

The 1999 note is collateralized by a second mortgage lien on and security interest in land, buildings, structures and improvements owned by Hoosier and its subordinate entity, Hoosier II. MRC subsequently entered into a Term Note Subordination Agreement which provides that MRC may not accelerate or exercise any remedies under the Term Note or the Second Mortgage without the consent of a majority of holders of the first mortgage.

On November 4, 2003 MRC agreed to loan working capital to affiliates of American. The unsecured indebtedness is in the form of a revolving credit loan and bears interest at the rate of 8%. As of December 31, 2005, all principal and interest then unpaid shall be due and payable. American may use all or any part of the credit provided by this note at any time before the maturity date. American's affiliates may borrow, repay or reborrow, and there is no limit on the number of advances against this note so long as the total unpaid principal outstanding does not exceed \$500,000. MRC's obligation to make advances terminates on December 31, 2005.

**Medical Rehabilitation Centers, Inc.**  
**Notes to Financial Statements, Continued**

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**2. Notes Receivable and Related Party Transactions, continued:**

The scheduled maturity of notes receivable is as follows:

2004	\$ 100,500
2005	170,945
2006	127,800
2007	137,900
2008	149,400
Thereafter	1,071,400
	<u>\$ 1,757,945</u>

**3. Long-Term Debt:**

MRC maintains a line of credit totaling \$600,000 which is available for working capital deficiencies. As of December 31, 2003 and 2002 the line of credit was unused.

**4. Dividend Payable:**

On October 12, 1989, a dividend totaling \$1,500,000 was declared to shareholders of record as of October 13, 1989. Payment of the distribution was conditional on repayment of all loans to Hoosier and the release of the \$1,500,000 certificate of deposit which was maintained as collateral on a line of credit. These conditions were met in June 1992.

On December 28, 1992, MRC issued 843.75 shares of preferred stock, in exchange for cancellation, satisfaction and discharge of \$843,750 of the dividend payable. The remaining balance of the indebtedness, \$656,250, was owed to a former shareholder and repayment began October 1, 1994, in equal monthly installments of \$3,646 for fifteen years, without interest. The scheduled maturities of the dividend payable as of December 31, 2003 are as follows:

2004	\$ 43,750
2005	43,750
2006	43,750
2007	43,750
2008	43,750
Thereafter	32,813
	<u>\$ 251,563</u>

**Medical Rehabilitation Centers, Inc.**  
**Notes to Financial Statements, Continued**

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**5. Concentration:**

MRC's earnings consist principally of revenues derived from managing Hoosier, Hoosier II, American, and three retirement communities owned by Westfield. Accounts receivable for management services as of December 31, 2003 and 2002 were as follows:

	<u>2003</u>	<u>2002</u>
Hoosier Care, Inc.	\$ 270,755	\$ 313,880
Hoosier Care II, Inc.	183,838	-
American Eagle LifeCare Corporation	<u>77,500</u>	<u>232,757</u>
	<u>\$ 532,093</u>	<u>\$ 546,637</u>

Management revenues from Hoosier, Hoosier II, American and Westfield for the years ended December 31, 2003 and 2002 were as follows:

	<u>2003</u>	<u>2002</u>
Hoosier Care, Inc.	\$ 1,504,800	\$ 1,390,200
Hoosier Care II, Inc.	889,800	967,200
American Eagle LifeCare Corporation	155,000	-
Westfield Associates, LLC	<u>88,000</u>	<u>42,000</u>
	<u>\$ 2,637,600</u>	<u>\$ 2,399,400</u>

**6. Profit Sharing Plan:**

MRC has a 401(k) Plan which provides for annual company contributions in amounts determined by the Board of Directors. The Plan covers all employees. Employees may elect to contribute up to 15% (maximum \$12,000 in 2003 and \$11,000 in 2002 for all participating employees, plus an additional \$2,000 in 2003 and \$1,000 in 2002 for those age 50 or older by the end of the tax year) of their pre-tax earnings to the Plan, and MRC matches the first 5%. MRC's contributions for the years ended December 31, 2003 and 2002 totaled \$83,709 and \$79,834, respectively.

**Medical Rehabilitation Centers, Inc.**  
**Notes to Financial Statements, Continued**

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**7. Stockholders' Equity:**

MRC has a Shareholders Buy-Sell Agreement, dated March 31, 1997, whereby the termination of shareholder employment requires a mandatory redemption of common shares by MRC. The redemption price for the shares is deemed to be book value adjusted for the fair market value of real estate. The redemption will be funded by disbursing an amount equal to 10% of the redemption price in cash plus MRC's purchase note obligation to pay the remaining balance in nine equal, consecutive, annual installments, each in an amount equal to 10% of the redemption price, with interest on the unpaid principal balance at 8% per annum.

**8. Subsequent Events:**

Effective January 1, 2004, one of MRC's shareholders retired and terminated employment with the Company.



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